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# INTRODUCTION

**S**tate and Local Government in Louisiana: An Overview is published by House Legislative Services to provide an introduction to government in Louisiana at both the state and local levels. It is revised quadrennially and is intended primarily to serve as background information for newly elected members of the Louisiana House of Representatives.

State government in Louisiana is comprised of three coordinate and coequal branches, namely the executive, legislative, and judicial branches. The constitution and laws of the state distribute the powers of state government among the three branches. As a general principle, no one of the branches, nor any person holding office in any one of them, may exercise power belonging to either of the others. This is referred to as the doctrine of the separation of powers and is common to the national government and all state governments.

The **legislature** is responsible for determining policy through the enactment of laws, subject to federal and state constitutional restrictions. In addition to general laws having statewide application, the legislature may also enact laws applying only to particular localities, but this power is subject to a number of specific constitutional limitations. The appropriation of funds to finance programs and functions of state government is a power vested solely in the legislature. Another major legislative power is oversight of implementation and administration of state programs by executive branch agencies.

## **Three Branches of State Government**

Legislative  
Executive  
Judicial

“The powers of government of the state are divided into three separate branches: legislative, executive, and judicial.” *La. Const. Art. II, Sec. 1*

“Except as otherwise provided by this constitution, no one of these branches, nor any person holding office in one of them, shall exercise power belonging to either of the others.” *La. Const. Art. II, Sec. 2*

The **legislative branch** includes the legislature, which is comprised of the House of Representatives and the Senate, as well as the officers and employees of the two houses and certain other officers and agencies responsible to the legislature. (*See pages 3 and following.*)

The **judicial branch** is composed of a supreme court, courts of appeal, district courts, and other courts having specialized or limited jurisdiction. These courts are empowered to interpret provisions of the constitution and legislative enactments and to decide civil or criminal cases within their prescribed jurisdictions. (*See pages 8 and following.*)

The **executive branch** is generally responsible for the administration and enforcement of the constitution and laws. The governor is the chief executive officer of the state. In accordance with authority granted by law, or by the constitution for certain agencies, executive branch agencies exercise the power to make rules concerning particular aspects of general policy. The complexity of day-to-day operations of state government makes necessary this delegation of or sharing in the powers of the legislature. (*See pages 24 and following.*)

## INTRODUCTION

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**Fiscal responsibilities** are shared by the governor and the legislature. The governor is responsible for preparing and submitting to the legislature both a fiscal year operating budget and a five-year capital outlay program. The legislature is empowered to appropriate funds for these and other purposes. The governor may veto any line item in an appropriation bill, but the legislature by a two-thirds vote may override a gubernatorial veto. Both the governor and the legislature are charged with insuring that total appropriations for any fiscal year do not exceed anticipated revenues for that year. Legislative appropriations cannot exceed the official revenue forecast and, with certain exceptions, cannot exceed the expenditure limit for the current fiscal year. (*See pages 80 and following.*)

Article VI of the state constitution provides for **local government**. It grants broad home rule authority, with voter approval, to parishes and municipalities and vests in each parish and municipality all necessary, requisite, or proper powers not denied by its charter or by general law. This represents a change from the provisions of the 1921 Constitution which made local governments legislative creatures generally dependent upon specific grants of authority by the legislature. Additionally, local governmental subdivisions (parishes and municipalities) are vested with broad power to cooperate with each other and to consolidate or merge special districts or other local public agencies into themselves. (*See pages 281 and following.*)

The constitution also provides that no law or state executive order, rule, or regulation requiring increased expenditures for any purpose shall become effective within a political subdivision until: (1) approved by ordinance or resolution of the governing authority of the affected political subdivision, or (2) the legislature appropriates funds for the purpose (and only for so long as funds are so appropriated), or (3) a law provides for a local source of revenue within the political subdivision for the purpose, and the affected political subdivision is authorized by ordinance or resolution to levy and collect such revenue. The effectiveness is limited to the extent and amount of the funding. The provision does not apply to school boards or to certain specified laws and instruments.

Though the present constitution grants more autonomy to local governments than did the earlier constitution, local governments remain dependent upon the state as a source of revenue to a significant degree. This is due, in part, to greater sources of revenue at the state level and to limitations upon the powers of local governments to raise revenues. The constitution mandates that certain revenue sharing funds be distributed to local governments and political subdivisions. Statutes provide for other types of financial assistance by the state to local governments. Issues relating to sharing of responsibility for certain governmental functions by the state and local governments, the proper level of state financial assistance to local governments, and the appropriate balance between the taxing authority of the state government and of local governments continue to be important ones. (*See pages 297 and following.*)

This is but a brief outline of the topics discussed in this overview of *State and Local Government in Louisiana*.

# STATE AND LOCAL GOVERNMENT IN LOUISIANA: AN OVERVIEW 2004-2008 TERM

## CHAPTER 1 — ORGANIZATION OF STATE GOVERNMENT

<b>Part I. The Legislative Branch</b>	
<b>3</b>	<b>Legislative Powers</b>
<b>4</b>	<b>Continuous Body</b>
<b>4</b>	<b>Composition</b>
<b>4</b>	<b>Terms and Vacancies</b>
<b>4</b>	<b>Officers</b>
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<b>5</b>	<b>Organizational Sessions</b>
<b>5</b>	<b>Orientation Guide for Louisiana House Members</b>
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<i>House Legislative Services</i>	
<b>Legislative Powers</b>	
<p>The Louisiana Constitution establishes the legislative branch as one of the three coordinate branches of state government. Article III, Section 1(A) vests the legislative power of the state in the legislature, consisting of the Senate and the House of Representatives. The legislature is responsible for determining general policy for state government and the state's residents by the enactment of laws. The power to enact laws is subject to the substantive and procedural limitations of the federal and state constitutions. Oversight of the actions of the executive branch in administering state programs is another traditional legislative power. This power, closely related to lawmaking, is exercised to assure that legislative policy and intent are carried out. Review of administrative rules of executive branch agencies by legislative committees is an important exercise of this authority. The legislature and its committees also have the power to gather information and make investigations needed to enact laws.</p> <p>The executive branch of state government is responsible for the implementation of the constitution and laws. Even though the governor is the state's chief executive officer, he exercises certain legislative powers. The constitution directs him, at the beginning of each regular session and at other times, to make reports and recommendations and to give information to the legislature concerning "the affairs of state, including its complete financial condition." It also requires that he submit to the legislature an operating budget and a capital budget for each fiscal year. He may call the legislature into special session. Additionally, he may veto any bill or any item in an appropriation bill. The legislature has constitutional power to override a veto by a two-thirds vote of the elected membership of each house. This power was exercised for the first time, at least since adoption of</p>	

## THE LEGISLATIVE BRANCH

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the 1921 Constitution, during the 1991 Regular Session (*Act No. 26*) and has been exercised only once since then. (*Act No. 394 of the 1993 R.S.*)

### Continuous Body

The constitution (*Const. Art. III, §1(B)*) provides that the legislature is a continuous body during the time for which its members are elected. Thus, legislative rules continue to be effective even when the legislature is not in session and standing committees of the legislature have authority to conduct studies and hearings during the interim between sessions.

### Composition

The constitution limits the maximum number of senators to 39 and the maximum number of members of the House of Representatives to 105 (*Const. Art. III, §3*). Currently, both houses are composed of the maximum number. The distribution of representation in both houses is based on population in accordance with state constitutional mandate and U.S. Supreme Court decisions. The constitution (*Const. Art. III, §1*) requires single-member legislative districts; that is, each of the 39 senators and each of the 105 members of the House of Representatives represents a separate district. The legislature is required to reapportion the representation in each house by the end of the year following the year in which the state's population is reported to the president of the United States for each decennial federal census, on the basis of total population shown by such census.

### Terms and Vacancies

Legislators are elected for four-year terms. A 1995 constitutional amendment limits the number of consecutive terms a person may serve in each house of the legislature. The limitation provides that anyone who has served more than two and one-half terms in three consecutive terms may not be elected to the succeeding term in the same house. The limitation applies only to service during a term of office that began on or after January 8, 1996. (*Const. Art. III, §4(E)*)

A legislative vacancy may be filled only for the remainder of the term during which it occurred and only by election of the voters of the district in which the vacancy occurred. (*Const. Art. III, §4(D)*)

### Officers

The officers of each house of the legislature are elected at the beginning of each term to serve for four-year terms. The House of Representatives elects from among its members a speaker and speaker pro tempore. It also elects its chief clerical officer, the clerk of the House, who is not a member. The Senate elects its presiding officer, the president of the Senate, from among its membership and also elects a president pro tempore from its membership. It selects its chief clerical officer, the secretary of the Senate; the secretary is not a member of the Senate. The rules of the respective houses provide for such elections. (*Const. Art. III, §7(C)*; *R.S. 24:501 et seq.*; *House Rules 2.3, 2.7, and 2.9*)

### Sessions of the Legislature

The legislature is required to convene in Baton Rouge for regular annual sessions and may convene for extraordinary or special sessions and for veto sessions. A 1993 constitutional amendment (*Act No. 1041*) made a number of changes relative to legislative sessions, their

subject matter limitations, time of convening, and duration. A subsequent amendment (Act No. 1231 of the 2001 Regular Session, effective January 1, 2004) made additional changes.

Regular annual sessions in even-numbered years are general in nature and are limited to 60 legislative days within 85 calendar days. Regular annual sessions in odd-numbered years are limited to specified fiscal-related subjects and certain other legislation and to 45 legislative days within 60 calendar days. (*Const. Art. III, §§2 and 18*) The table on the following page summarizes constitutional provisions applicable to annual regular legislative sessions and the differences between sessions in even-numbered years and those in odd-numbered years.

### **Organizational Sessions**

The constitution also requires that an organizational session be convened in the state capitol on the day the members take office (the second Monday in January after the quadrennial election). Organization of the two houses, including selection of officers, is the major purpose of an organizational session. Resolutions and rules can be adopted but no matter intended to have the effect of law may be introduced. Such a session cannot exceed three legislative days. (*Const. Art. III, §2(D)*)

### **Orientation Guide for Louisiana House Members**

As suggested by the title of this publication, this Part is not intended as a comprehensive review of legislative organization and procedure; rather, it provides an overview of the legislature. A separate publication, *Orientation Guide for Louisiana House Members*, provides detailed information concerning the legislative branch.

### **Rules of Order of the House of Representatives**

The rules governing House procedure are contained in a body of rules officially adopted by the House of Representatives. These rules remain continuously in effect and are subject to amendment by the House as provided in the rules. They are published in a separate publication, *Rules of Order of the House of Representatives*. The rules, together with the state constitution, constitute the major primary sources for specific information about the powers and functions of the legislature and its officers, as well as legislative organization and procedure.

### **Quick Guides**

In addition to the publications discussed above, the publications *Quick Guide to Committee Procedure in the Louisiana House of Representatives* and *Quick Guide to Floor Procedure in the Louisiana House of Representatives* provide practical, detailed information about House procedure. They include examples of the actual language used in making motions and in other parliamentary practice.



Annual Regular Legislative Sessions ~ Key Constitutional Provisions

Provision	Regular Sessions Even-Numbered Years	Regular Sessions Odd-Numbered Years
When session convenes	Noon, last Monday in March	Noon, last Monday in April
Maximum session length	60 legislative days in 85 calendar days	45 legislative days in 60 calendar days
Subject matter limitations	Prohibition on introducing or enacting any measure levying or authorizing a new tax or a tax increase by the state or by a statewide political subdivision or legislating with regard to tax exemptions, exclusions, deductions, or credits	Prohibition on introduction or consideration of measure having effect of law (including suspension) unless its object is to enact a general appropriations bill, enact the comprehensive capital budget, make an appropriation, levy or authorize a new tax, increase an existing tax, levy, authorize, increase, decrease, or repeal a fee; dedicate revenue; legislate with regard to tax exemptions, exclusions, deductions, reductions, repeals, or credits, or legislate with regard to the issuance of bonds. Restrictions do not apply if: (1) The matter is prefiled by the prefiling deadline (this exception is limited to five of such matters per member per session); or (2) The object of the matter is to enact a local or special law which is required to be and has been advertised in accordance with Const. Art. III, Sec. 13 and is not prohibited by Const. Art. III, Sec. 12
Number of bills member may introduce	Five, unless prefiled by prefiling deadline <sup>1</sup>	Five, unless prefiled by prefiling deadline <sup>1</sup>
Deadline for prefiling of bills (Does not apply to constitutional amendments)	5 p.m. on the 10th calendar day prior to 1st day of session (Constitutional amendments must be prefiled at least 10 days before session)	5 p.m. on the 10th calendar day prior to 1st day of session (Constitutional amendments must be prefiled at least 10 days before session)
Deadline for bill introduction (Does not apply to constitutional amendments) (Bill introduction after deadline not permitted)	6 p.m. of the 23rd calendar day (Constitutional amendments must be prefiled at least 10 days before session)	6 p.m. of the 10th calendar day (Constitutional amendments must be prefiled at least 10 days before session)
Deadline for 3rd Reading/Final Passage	6 p.m. of 57th legislative day or 82nd calendar day, whichever occurs first (except by 2/3 vote of both houses)	6 p.m. of 42nd legislative day or 57th calendar day, whichever occurs first (except by 2/3 vote of both houses)
Time of adjournment sine die	6 p.m., if on 85th calendar day; <i>Midnight</i> , if prior to 85th calendar day	6 p.m., if on 60th calendar day; <i>Midnight</i> , if prior to 60th calendar day

<sup>1</sup> Exceptions permitted by joint rule. Joint Rule No. 17 provides that the following bills are not subject to five-bill limit: general appropriation bill; judicial branch appropriation; legislative branch appropriation; capital outlay bill; omnibus bond authorization bill; supplemental appropriations bill; revenue sharing bill; ancillary funds bill.

# STATE AND LOCAL GOVERNMENT IN LOUISIANA: AN OVERVIEW 2004-2008 TERM

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<b>8</b>	<b>Supreme Court</b>
<b>9</b>	<b>Courts of Appeal</b>
<b>9</b>	<b>District Courts</b>
<b>10</b>	<b>Courts of Limited and Specialized Jurisdiction</b>
<b>11</b>	<b>Judicial Administrator</b>
<b>11</b>	<b>Judiciary Commission</b>
<b>12</b>	<b>Judicial Council</b>
<b>13</b>	<b>Judicial College</b>
<b>13</b>	<b>Indigent Defender System</b>
<b>14</b>	<b>Arbitration, Mediation, and Other Alternative Methods of Dispute Resolution</b>
<b>15</b>	<b>Administrative Hearings</b>

*House Legislative Services*

## Part II-A. The Judicial Branch

The judicial branch of state government functions through a system of courts with the supreme court being the state's highest court, below which are the courts of appeal, followed by the district courts, and then the courts of limited and specialized jurisdiction which include family, juvenile, parish, city, municipal, traffic, justice of the peace, and mayor's courts. (*Louisiana Court Structure chart, see page 22 of this Part.*)

### Supreme Court

The supreme court is composed of a chief justice and six associate justices, four of whom must concur to render judgment, and the term of a supreme court justice is ten years. (*Const. Art. V, §3*). The state constitution requires that the state be divided into at least six supreme court districts and that at least one judge be elected from each district (*Const. Art. V, §4*). The composition of the seven supreme court districts is provided for in R.S. 13:101 and 101.1.

The jurisdiction of the supreme court consists of general supervisory jurisdiction over all other courts. It has authority to establish procedural and administrative rules not in conflict with law and to assign a sitting or retired judge to any court (*Const. Art. V, §5(A)*). Disciplinary proceedings against a member of the bar are within the supreme court's exclusive original jurisdiction (*Const. Art. V, §5(B)*). The supreme court has appellate jurisdiction over any case in which a law or ordinance has been declared unconstitutional and also over any case in which the defendant has been convicted of a capital offense and a penalty of death actually has been imposed (*Const. Art. V, §5(D)*). The scope of review of the supreme court in civil cases extends to both law and facts, and in criminal cases its appellate jurisdiction extends only to questions of law (*Const. Art. V, §5(C)*). In addition, the supreme court has sole authority to provide by

rule for appointments of attorneys as temporary or ad hoc judges of city, municipal, traffic, parish, juvenile, or family courts.

### Courts of Appeal

The Louisiana Constitution (*Const. Art. V, §8(A)*) requires that the state be divided into at least four circuits, each having a court of appeal. State law currently provides for five court of appeal circuits (*R.S. 13:312*). Each circuit is required to be divided into at least three districts, with at least one judge elected from each such district (*Const. Art. V, §9*). Each court of appeal sits in panels of at least three judges and a majority of the judges sitting in a case must concur to render judgment. If, however, in civil matters only, a judgment of a district court is to be modified or reversed and one judge dissents, the case must be reargued before a panel of at least five judges prior to rendition of judgment, and a majority must concur in the judgment.

Except in cases appealable to the supreme court and except as otherwise provided by the constitution (*Const. Art. V, §10(A)*), a court of appeal has appellate jurisdiction of all civil matters, including direct review of administrative agency determination in workers' compensation matters, all matters appealed from family and juvenile courts, and all criminal matters triable by a jury, except capital cases where the death penalty has been imposed. A court of appeal has jurisdiction of appeals from civil judgments of city courts and parish courts (*C.C.P. Art. 5001 and R.S. 13:1452*). A court of appeal has supervisory jurisdiction over cases which arise within its circuit (*Const. Art. V, §10(A)*). Except as limited to questions of law by the constitution, or as provided by law in the review of administrative agency determinations, appellate jurisdiction of a court of appeal in civil matters extends to law and facts (*Const. Art. V, §10(B)*). In the review of an administrative agency determination in a workers' compensation matter, a court of appeal may render judgment as provided by law, or, in the interest of justice, remand the matter to the administrative agency for further proceedings. In criminal matters its appellate jurisdiction extends only to questions of law (*Const. Art. V, §10(C)*).

### District Courts

The Louisiana Constitution (*Const. Art. V, §14*) requires that the state be divided into judicial districts, each composed of at least one parish and served by at least one judge. Currently there are 40 judicial districts in the state, each constituting a district court. In addition, the parish of Orleans is served by a civil district court and a criminal district court instead of a single district court as is the case in all other parishes of the state.

The district court, except as otherwise provided by the state constitution, or provided by law for administrative agency determinations in workers' compensation matters, has original jurisdiction of all civil and criminal matters. It has exclusive original jurisdiction of felony cases and of cases involving title to immovable property, except for divorce or annulment cases in a family court involving community property partitions or matrimonial regimes claims; the right to office or other public position; civil or political rights; probate and succession matters; the state, a political corporation, or political subdivisions, or a succession, as a defendant; and the appointment of receivers or liquidators for corporations or partnerships (*Const. Art. V, §16(A)*). The state constitution provides that a district court shall have appellate jurisdiction as provided by law (*Const. Art. V, §16(B)*). The Louisiana Code of Civil Procedure provides for appellate review of civil cases from a justice of the peace court to the district court, if the justice of the peace court is in a parish having no parish court to which the appeal would otherwise lie (*C.C.P. Art.*

4924(A)). Appeals to the district court also lie in certain criminal matters from mayor's courts, justice of the peace courts, city, parish and municipal courts (R.S. 13:1896).

### Courts of Limited and Specialized Jurisdiction

Family, juvenile, parish, city, municipal, traffic, and magistrate courts existing on the effective date of the 1974 Louisiana Constitution were retained (*Const. Art. V, §15(A) and §32*).

The East Baton Rouge, Caddo, Jefferson, and Orleans Parish Juvenile Courts and the East Baton Rouge Parish Family Court are specialized courts exercising jurisdiction which in other parishes is exercised by the district court. (*The juvenile jurisdiction of the courts is set forth in Title III of the Louisiana Children's Code, Articles 301-338. Additionally, R.S. 13:1401 provides for the jurisdiction of the East Baton Rouge Parish Family Court.*)

The Uniform Parish Court Jurisdiction and Procedure Act (R.S. 13:1441-1458) provides for uniform subject matter jurisdiction for all **parish courts** as required by the constitution (*Const. Art. V, §15(A)*). The Act provides that it shall not change the territorial jurisdiction of the First and Second Parish Courts of Jefferson Parish, which courts were created prior to the effective date of the 1974 Louisiana Constitution (R.S. 13:1455). C.C.P. Article 4842 and R.S. 13:1443(A) provide that the civil jurisdiction of a parish court is concurrent with that of the district court in cases where the amount in dispute, or the value of the property involved, does not exceed \$20,000 (*Ascension Parish Court*). In addition, the Uniform Parish Court Jurisdiction and Procedure Act provides that a parish court shall have criminal jurisdiction concurrent with the district court over all violations of state law and parish or municipal ordinances committed within its territorial jurisdiction, which are punishable by a fine not exceeding \$1,000 or by imprisonment not exceeding six months, or both (R.S. 13:1446(A)). (*See R.S. 13:2561.3 and R.S. 13:2562.3 for the criminal jurisdiction of the First and Second Parish Courts of Jefferson Parish.*)

Presently, Louisiana has 50 **city courts**, including, in the city of New Orleans, the First and Second City Courts, a municipal court, and a traffic court. Generally, the civil jurisdiction of a city court is concurrent with the district court in cases where the amount in dispute, or the value of the property involved, does not exceed \$10,000 or, if the court's territorial jurisdiction has a population of less than 50,000, \$15,000 (C.C.P. Art. 4843(A) and (E)). The jurisdictional amount is also \$15,000 in city courts in Bossier City, Lafayette, and Shreveport (C.C.P. Art. 4843(E)(2) and (G)). The jurisdictional amount is \$20,000 in the City Courts of Baton Rouge and Slidell (C.C.P. Art. 4843(F)). The jurisdictional amount is \$30,000 in the City Court of Hammond (C.C.P. Art. 4843(J)). The jurisdictional amount is \$35,000 in the City Courts of Pineville, Leesville, Minden, and Alexandria (C.C.P. Art. 4843 (I) and (K)). In the First and Second City Courts of New Orleans and the City Courts of Monroe, Plaquemine, Oakdale, Ruston, Natchitoches, Port Allen, Sulphur, Lake Charles, and Springhill the jurisdictional amount is \$25,000 (C.C.P. Art. 4843(D) and (H)). The criminal jurisdiction of a city court (except in the parish of Orleans) is limited to the trial of offenses committed within the territorial jurisdiction of the court which are not punishable by imprisonment at hard labor, including the trial of cases involving the violation of any city or parochial ordinance (R.S. 13:1894, R.S. 13:2485.21, R.S. 13:2487.21, R.S. 13:2488.24). The First and Second City Courts of New Orleans have civil but no criminal jurisdiction (*La. Const. 1921, Art. 7, §91 (continued as a statute under La. Const. Art. XIV, §16(A)(5))*).

The jurisdiction of the Municipal Court of New Orleans extends to the trial of violations of ordinances of the city of New Orleans, except traffic violations, and the court also has

concurrent jurisdiction with that of the Criminal District Court for the Parish of Orleans with respect to the trial of violations of state statutes which are not triable by a jury. The Housing and Environmental Court Division of the municipal court has jurisdiction over violations of the city building code, zoning ordinances, and certain chapters of the City Code (R.S. 13:2493). The jurisdiction of the Traffic Court of New Orleans extends to the trial of violations of city ordinances regulating traffic within the city, and the court also has concurrent jurisdiction with that of the Orleans Parish Criminal District Court with respect to the trial of offenses involving traffic and the regulation thereof punishable by state statute, including violations of the Criminal Code of Louisiana involving traffic, and the trial of violations relating to street and highway laws, and such other state laws as relate to the operation of a vehicle (R.S. 13:2501.1(F)).

**Justice of the peace courts** exercise civil jurisdiction concurrent with the district court in cases where the amount in dispute does not exceed \$3,000 (*C.C.P. Art. 4911 and R.S. 13:2586(A)*). Justices of the peace have criminal jurisdiction as committing magistrates only and shall have the power to bail or discharge, in cases not capital or necessarily punishable at hard labor, and may require bonds to keep the peace (R.S. 13:2586(C)).

### Judicial Administrator

The supreme court appoints its judicial administrator, who under the court's rules also serves as the administrator for the judicial council and chief executive officer of the judiciary commission (*Const. Art. V, §7 and Sup. Ct. Rules XXII and XXIII*). The current judicial administrator is Hugh M. Collins, Ph.D.

### Judiciary Commission

Initially established by constitutional amendment in 1968, the judiciary commission is continued by the Constitution of 1974 (*Const. Art. V, §25; see also R.S. 13:32-36, R.S. 44:10 and Sup. Ct. Rule XXIII*).

The commission, after investigation as a result of a complaint or upon its own motion and adversary hearings, may make recommendations to the supreme court to censure, suspend with or without salary, remove from office, or retire involuntarily a judge for willful misconduct relating to his official duty, willful and persistent failure to perform his duty, persistent and public conduct prejudicial to the administration of justice that brings the judicial office into disrepute, conduct while in office which would constitute a felony, or conviction of a felony. It may recommend to the supreme court the involuntary retirement of a judge for disability that seriously interferes with the performance of his duties and that is or is likely to become permanent. All proceedings, until filed with the supreme court, are confidential (*Const. Art. V, §25(C)*).

In addition, the supreme court has designated the commission (under Sup.Ct. Rule XXIV) as the board of inquiry to hold hearings, gather evidence, and make recommendations to the court regarding the inability or recovery from inability of a statewide elected official to discharge the powers and duties of his office. The constitution mandates that the supreme court determine the issue of inability after transmission of a resolution adopted by two-thirds of each house of the legislature that probable justification exists for a declaration of inability (*Const. Art. IV, §18*).

The commission is composed of one court of appeal judge and two district court judges selected by the supreme court; two attorneys admitted to the practice of law for at least ten years, and

one attorney admitted for at least three years but not more than ten, selected by the Conference of Court of Appeal Judges or its successor; and three citizens, not lawyers, judges active or retired, or public officials, selected by the Louisiana District Judges' Association or its successor. Each member of the commission serves a four-year term and is ineligible to succeed himself. Vacancies are filled by appointment for a four-year term by the authority which appointed the predecessor (*Const. Art. V, §25(A) and (B)*).

The judicial administrator is the chief executive officer of the judiciary commission (*Sup. Ct. Rule XXIII, Sec. 5(a)*).

### **Judicial Council**

The judicial council was created in 1950 by the supreme court (*Sup. Ct. Rule XXII*). It consists of not more than seventeen voting members who serve for terms of three years unless otherwise specified by rule. Of the seventeen members eight are judges, including the chief justice, who serves as chairman. The balance of the membership consists of persons representing the Louisiana State Bar Association, the Young Lawyers Section of the State Bar, the Louisiana State Law Institute, the Louisiana District Attorneys' Association, the Louisiana Clerks of Court Association, the legislature, and one nonlawyer citizen and a nonvoting secretary appointed by the judicial council. The legislature has two persons on the council. One is appointed by the speaker of the House of Representatives and one by the president of the Senate who serve at the pleasure of their respective appointing authorities.

The primary functions of the council are to study judicial organization, rules, procedures, practices and exercise of discretionary powers, to formulate methods for simplifying judicial procedure, expediting the transaction of judicial business and correcting faults in the administration of justice, and to make an annual report. The legislature has urged each committee of both houses not to take any action on a bill that would alter territorial jurisdiction or change the number of judges at the district court level until the committee has received a report from the judicial council (*S.C.R. No. 8, 1975 Extraordinary Session*). When there is a proposal to create a new judgeship, judicial district, or court, the council organizes an evaluation team to investigate the proposal. Among other criteria, the team analyzes the efficiency and case load of the present court and makes a recommendation to the full council. The council then makes its recommendation to the legislature. Its recommendations in this area are given much weight in the legislative process. *H.C.R. No. 9 of the 1998 Regular Session* requested the judicial council to work with and to communicate with the Louisiana Legislature on pending legislation which affects the court system. This Resolution recognizes that no new judgeships have been created in recent times without a recommendation from the judicial council based on specific criteria showing the need for additional judgeships. Act 163 of the 2003 Regular Session codifies this practice into law.

The supreme court appoints and fixes the salary of the judicial administrator for the judicial council (*Const. Art. V, §7; R.S. 13:10; Supreme Court Rule XXII*). The administrator is responsible for studying the administration of the courts and making recommendations to the supreme court and the council and for attending to matters assigned to him by the court or the judicial council. He is charged with investigating and making recommendations regarding violations of the time limits set by statute within which trial court judges must render decisions on certain matters (*R.S. 13:4207 et seq.*). Violation of these statutory standards may subject a judge to a loss of a portion of his pay (*R.S. 13:4210*).

### Judicial College

The Louisiana Judicial College, established by order of the supreme court of Louisiana in 1976, provides continuing education of Louisiana judges and provides special pre-bench training for new judges. As an adjunct to this primary function, the college publishes and distributes “bench books” and other publications (including legislative analyses and a criminal law newsletter) to members of the judiciary. It also prepares and distributes other publications designed to assist in the training of court personnel, such as clerks of court and judicial law clerks. The Judicial College also works closely with the judges’ associations in developing programs and fostering continuing education among the state’s judiciary.

### Indigent Defender System

The Louisiana Constitution requires that the legislature provide for a uniform system of securing and compensating qualified counsel for indigents who are accused in criminal prosecutions (*Const. Art. I, §13*).

In response to this requirement the legislature initially created the Louisiana Indigent Defender Board and required the establishment of indigent defender boards in each judicial district (*R.S. 15:141 et seq.*). The Louisiana Indigent Defender Board expired July 1, 1980, and its statutory authorization was repealed in 1981.

Each district indigent defender board is required to maintain a current panel of volunteer attorneys and nonvolunteer attorneys (*R.S. 15:145*). Each district board must provide counsel for indigent defendants through one of the following procedures or any combination thereof:

- (1) Appointment by the court from a list provided by the district board of volunteer and nonvolunteer attorneys licensed to practice law in this state. The court may delegate appointing power to the district board.
- (2) Appointment of a chief indigent defender, assistants, and support personnel.
- (3) A contract or contracts with one or more attorneys residing in the judicial district.
- (4) In a judicial district comprising more than one parish, the board may select the method of providing counsel for indigents on an individual parish basis.

Each district indigent defender board is composed of three to seven members, as determined by the district court. Members are selected from nominees provided by each bar association within the judicial district, or in the absence of nominations by the bar association, then by a majority of the district court judges. Each parish within the judicial district must be represented on the board. Elected officials and prosecutors from any court are not eligible to serve on the board (*R.S. 15:144*).

Each district indigent defender board is funded by sums taxed as special costs in criminal cases by each court of original jurisdiction throughout the state (*R.S. 15:146*). In addition, effective January 1, 1998, the Louisiana Supreme Court adopted rule (*Sup. Ct. Rule XXXI*) establishing indigent defender standards.

The legislature appropriated \$7,937,612 for indigent defender expenses and programs for Fiscal Year 2003-2004.

### **Arbitration, Mediation, and Other Alternative Methods of Dispute Resolution**

The high cost of litigation, combined with the length of time involved in the court system, has caused a growth of alternative methods of dispute resolution and the district courts of Louisiana have encouraged and supported the use of alternative dispute resolutions by court rule. Usually, these alternatives are written into contracts so that disputes are heard and decided by easier, faster, and less expensive methods.

**Arbitration** is the process in which the parties to a dispute submit the dispute to a third person for a decision or resolution which the parties agree, in advance, to abide by. The Louisiana Civil Code defines the term *submission* as a covenant by which persons who have a lawsuit or difference with one another name arbitrators to decide the matter and bind themselves reciprocally to perform what shall be arbitrated (*C.C. Art. 3099*). The Code provides that all persons may be arbitrators, except those suffering from incapacity or infirmity and it requires them to take an oath before a judge or justice of the peace that they will render their award with integrity and impartiality (*C.C. Arts. 3107 and 3111*).

The Louisiana Arbitration Law sets forth general provisions governing the validity of arbitration agreements, the appointment of arbitrators, the award, the effect and enforcement, and the appeals process (*R.S. 9:4201 et seq.*). Louisiana law also includes more specific statutes regarding the arbitration of medial and dental services or supplies contracts (*R.S. 9:4230*). However the legislature has made it clear in all of the arbitration statutes that a provision or agreement requiring arbitration to be conducted outside of this state is null, void, and unenforceable.

**Mediation** is a process of attempting to guide the parties who are involved in a dispute to come to a mutually acceptable solution. The purpose of mediation is to encourage and assist parties to reach their own mutually acceptable settlement by facilitating communication, helping to clarify issues and interests, fostering joint problem-solving, and exploring settlement alternatives. Mediation procedures are nonbinding unless all the parties specifically agree otherwise in writing (*R.S. 9:4110*). The Louisiana Mediation Act, the purpose of which is to encourage and support the use of mediation to promote the settlement of legal disputes, provides general guidelines for the referral of case for mediation, the costs of mediation, and for the confidentiality of communications and records (*R.S. 9:4101 et seq.*). Although the legislature has set forth specific qualifications for persons serving as mediators in different types of proceedings, all mediators must have completed forty hours of mediation training (*R.S. 9:334 and 4106 and Ch.C. Art. 439*).

Under Louisiana law, a court may order parties to mediate their differences in a custody or visitation proceeding or in any proceeding authorized under the Children's Code, except domestic abuse assistance proceedings, actions brought pursuant to the Post Separation Family Violence Relief Act, and the informal family services plan procedure (*R.S. 9:332 and 363 and Ch.C. Art. 437*).

In civil cases, on motion of any party, a court may order mediation. However, mediation in civil suits is not mandatory and the mediation order shall be rescinded if any party objects within fifteen days of receiving notice of the order (*R.S. 9:4103*). The proponents of mediation have



attempted to require court ordered mediation, but such changes have been unsuccessful due to the costs of mediation.

### **Administrative Hearings**

Louisiana has an Administrative Procedure Act (APA) (*R.S. 49:950 et seq.*) which provides for adjudicatory hearings by administrative agencies. The APA provides for the rules of procedure for adjudicatory hearings, including rules on evidence, subpoenas, discovery, and judicial review. These hearings are held in connection with the administration of laws establishing a regulatory scheme, and the jurisdiction of these hearings is limited to the subject matter of the respective state agencies. R.S. 49:950(1) defines “adjudication” as “. . . agency process for the formulation of a decision or order.” R.S. 49:964 provides for de novo review by the district court of the parish in which the agency is located. A court of appeal has appellate jurisdiction of administrative agency determinations in worker’s compensation cases (*La. Const. Art. V, §10(A)*). R.S. 49:967 specifically exempts from the APA the Board of Tax Appeals, the Department of Revenue, except for the Louisiana Tax Commission, Louisiana Employment Security Law, Pilot Fee Commission, and orders of the commissioner of conservation. (*For a more detailed discussion of the Administrative Procedure Act, see Chapter 2, Part XIII, page 275*)

**16 United States  
Supreme Court**

**17 United States  
Courts of Appeal**

**17 United States  
District Courts**

**18 United States  
Bankruptcy Courts**

**18 Federal Magistrates**

*House Legislative Services*

## Part II-B. The Federal Courts

### United States Supreme Court

Article III, §1, of the United States Constitution provides that the “judicial power of the United States, shall be vested in one supreme Court and such inferior Courts as the Congress may from time to time ordain and establish. The Judges, both of the supreme and inferior Courts, shall hold their Offices during good Behavior, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuation in Office.” The term “good Behavior” has generally meant life terms.

The United States Supreme Court consists of the chief Justice of the United States and such number of Associate Justices as may be fixed by Congress. The number of Associate Justices is currently fixed at eight (28 U.S.C. 1). The power to nominate the justices is vested in the President of the United States, and appointments are made with the advice and consent of the Senate.

Appeals from the federal courts of appeal are to the United States Supreme Court. Approximately 8,000 petitions concerning civil and criminal cases from the various state and federal courts are filed with the court each term. Plenary review, with oral arguments by attorneys, is granted in only 100 cases per term. Formal written opinions are delivered in 80 to 90 cases. In addition, some 1,200 applications of various kinds are filed each year that can be acted upon by a single justice.<sup>1</sup> The term of the supreme court begins, by statute, on the first Monday in October and continues until late June or early July. The term is divided between “sittings” when the justices hear cases and deliver opinions, and intervening “recesses” when they consider business before the court and write opinions. Sittings and recesses alternate at approximately two-week intervals.

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<sup>1</sup> From information prepared by the Supreme Court of the United States. See <http://www.supremecourtus.gov/>.

## **THE JUDICIAL BRANCH**

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In general, the supreme court hears cases for the purpose of resolving “splits among the circuits”, and to announce new directions in cases involving significant federal questions. “Splits among the circuits” occurs when the various circuit courts of appeal, in acting on cases involving significant federal questions, reach decisions which are opposite to each other or are widely divergent from each other.

### **United States Courts of Appeal**

Appeals from decisions in United States District Courts lie to United States Circuit Courts of Appeal. There are eleven numbered circuits, the United States Court of Appeal for the District of Columbia Circuit, and the United States Court of Appeal for the Federal Circuit. The courts of appeals for the numbered circuits hears appeals from the district courts within its circuit, as well as appeals from decisions of federal administrative agencies. The D.C. Circuit has jurisdiction over cases from the D.C. District. The United States Court of Appeal for the Federal Circuit has nationwide jurisdiction to hear appeals in cases involving other specific federal laws, such as when the federal government is a defendant, and those involving patents, trademarks, and copyrights and cases decided by the Court of International Trade and the Court of Federal Claims. Also included within each circuit, are United States bankruptcy courts. The court of appeals judges are nominated by the President and confirmed by the United States Senate, as stated in the Constitution.

### **United States District Courts**

There are three United States District Courts in Louisiana. These courts are the United States District Court for the Eastern District of Louisiana, which is located in New Orleans; the United States District Court for the Middle District of Louisiana, which is located in Baton Rouge; and the United States District Court for the Western District of Louisiana, which is located in Alexandria, Lafayette, Lake Charles, Monroe, and Shreveport.

The United States district courts are the trial courts of the federal court system. Within limits set by Congress and the Constitution, the district courts have jurisdiction to hear nearly all categories of federal cases, including both civil and criminal matters. There are 94 federal judicial districts, including at least one district in each state, the District of Columbia and Puerto Rico. Three territories of the United States – the Virgin Islands, Guam, and the Northern Mariana Islands – have district courts that hear federal cases, including bankruptcy cases.

There are two types of federal jurisdiction: “federal question” and “diversity”. “Federal question” jurisdiction exists in all civil actions arising under the constitution, laws, or treaties of the United States. “Diversity” jurisdiction exists when the controversy before the court is between citizens of different states, or between citizens of a state and citizens or subjects of a foreign state, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

There are two special trial courts that have nationwide jurisdiction over certain types of cases. The Court of International Trade addresses cases involving international trade and customs issues. The United States Court of Federal Claims has jurisdiction over most claims for money damages against the United States, disputes over federal contracts, unlawful “takings” of private property by the federal government, and a variety of other claims against the United States.

The district court judges are nominated by the President and confirmed by the United States Senate, as stated in the Constitution.

### **United States Bankruptcy Courts**

Federal courts have exclusive jurisdiction over bankruptcy cases. Bankruptcy cases cannot be filed in state court. Each of the current 94 federal judicial districts handles bankruptcy matters. The primary purposes of the law of bankruptcy are: (1) to give an honest debtor a “fresh start” in life by relieving the debtor of most debts, and (2) to repay creditors in an orderly manner to the extent that the debtor has property available for payment.

A U.S. bankruptcy judge is a judicial officer of the U.S. district court who is appointed by the majority of judges of the U.S. court of appeals for that circuit to exercise jurisdiction over bankruptcy matters. The number of bankruptcy judges is determined by Congress. The Judicial Conference of the United States is required to submit recommendations from time to time regarding the number of bankruptcy judges needed. Bankruptcy judges are appointed for 14-year terms.

### **Federal Magistrates**

A U.S. magistrate judge is a judicial officer of the district court and is appointed by majority vote of the active district judges of the court to exercise jurisdiction over matters assigned by statute as well as those delegated by the district judges. The number of magistrate judge positions is determined by the Judicial Conference of the United States, based on recommendations of the respective district courts, the judicial councils of the circuits, and the director of the Administrative Office of the U.S. Courts. A full-time magistrate judge serves a term of eight years. Duties assigned to magistrate judges by district court judges may vary considerably from court to court.

19	New Courts
20	Court Costs and Fees
20	Indigent Defender System
20	Redistricting/ Minority Subdistricts
20	Merit Selection of Judges
20	Judicial Compensation
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## Part II-C. Issues Concerning the State Judiciary

### New Courts

The 1974 Louisiana Constitution provides that the legislature may establish new trial courts of limited jurisdiction with parishwide territorial jurisdiction and subject matter jurisdiction which shall be uniform throughout the state (*Const. Art. V, §15*). Since the adoption of the 1974 Louisiana Constitution, the legislature has created seven new district courts and one parish court, which were created between 1975 and 1982.

Since 1986, the legislature has passed several Acts creating new lower courts. Those Acts include measures: creating a new juvenile court in East Baton Rouge Parish, creating and/or abolishing justice of the peace courts in Jefferson Parish, West Carroll Parish, Morehouse Parish, Grant Parish, and St. Charles Parish, and creating several new mayor’s courts.

There are two major reasons for this apparent trend in favor of creating new local courts: the citizens of the localities are looking for convenience and the governing authorities of the localities are looking for revenues from the imposition of fines for violations of local ordinances. In addition to the fines, court “costs” may be added to the fine. These “costs” pay for court expenses and a variety of programs without the imposition of taxes. Another issue is the use of court costs to fund programs not directly related to the criminal justice system or the operation of the courts. In *Safety Net for Abused Persons v. Segura*, 692 So.2d 1038 (La. 1997), the Louisiana Supreme Court held, *inter alia*, that fees collected pursuant to statute requiring clerks of court for city and municipal courts to collect additional fees in every type of civil suit filed and in every criminal case where costs, fines, or forfeitures are imposed, to be deposited in a special fund for a nonprofit corporation which provided support and counseling for family violence victims, constituted a “tax” and that the additional charge was not a fee assessed to defray expenses of litigation or to support the court system but was a revenue

raising measure designed to fund a particular social program. The court held that court filing fees may be imposed only for purposes relating to administration of justice, to conform with constitutional right of access to courts and constitutional separation of powers doctrine. (*La. Const. Arts. 1, § 22 and 11, § 2.*)

### **Court Costs and Fees**

In recent years, the number of bills to increase existing court costs and fees or to create new ones has increased. In the 2001 Regular Session, *S.C.R. No. 148* established a special committee to study court costs and the uses of court costs. The recommendations of the committee resulted in the enactment of Act 202 of the 2003 Regular Session which requires the Judicial Council to make recommendations to the legislature on the necessity of any legislation authorizing a new court costs or increasing any existing court costs.

### **Indigent Defender System**

The legislature appropriated \$7,937,612 for indigent defender expenses and programs for Fiscal Year 2003-2004; however, providing adequate funding for the indigent defender system will continue to be an issue for the legislature to address, as well as, dealing with the costs imposed on local governments for the operations of the courts and the justice system.

### **Redistricting/Minority Subdistricts**

Issues affecting the judiciary continue to be redistricting and the creation of minority subdistricts for election purposes. When a new judgeship is created, there is the potential for disagreement concerning whether a judge should be elected at large from the judicial district as a whole or whether a subdistrict should be created containing a majority minority population which subdistrict electorate would vote for a judge who would have districtwide jurisdiction. Since the consent decree in *Clark v. Edwards* covered existing judgeships at that time, the issue is whether certain newly created judgeships are required to be elected from subdistricts.

### **Merit Selection of Judges**

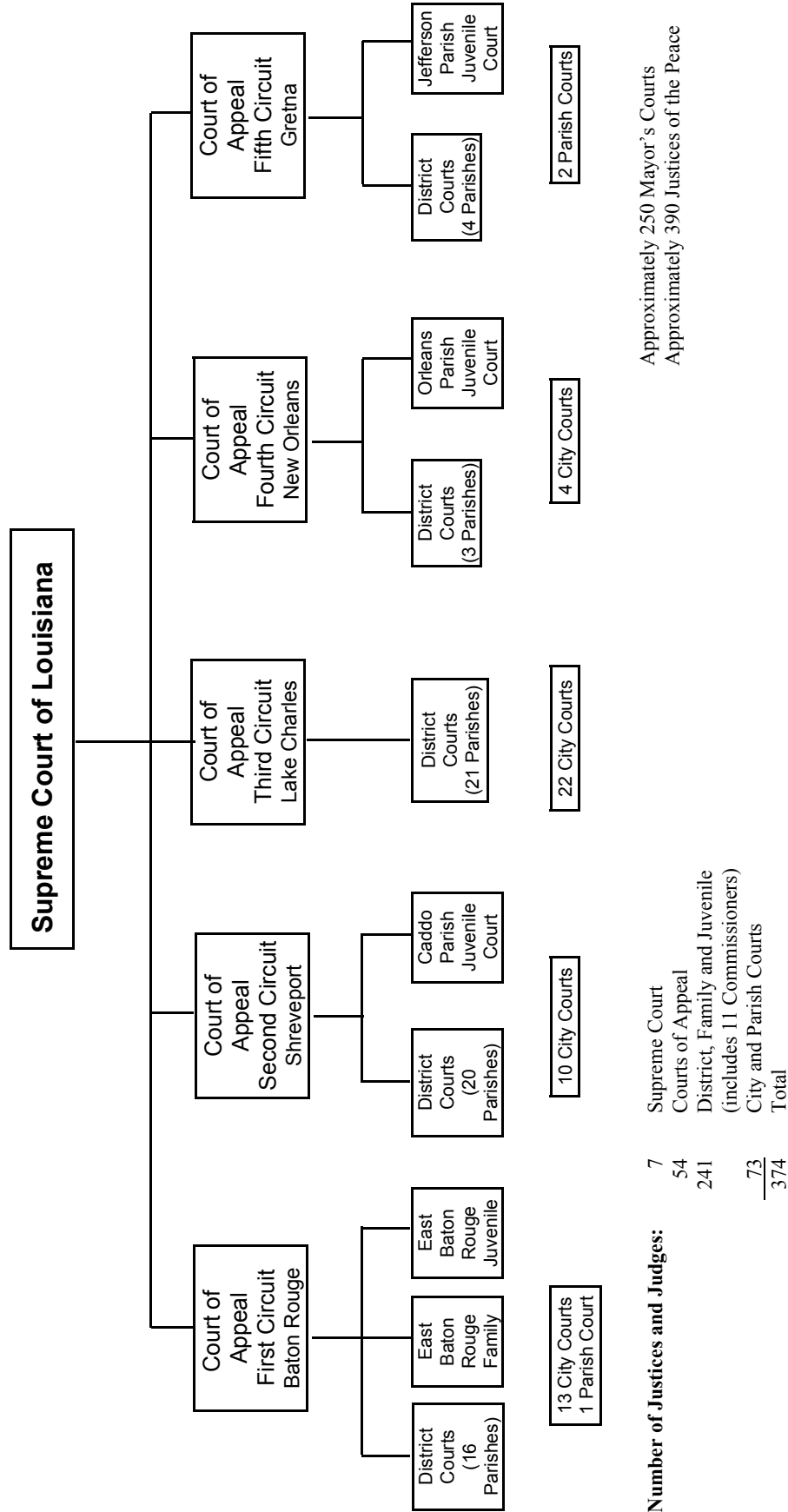
Merit selection or the appointment of judges has been a controversial issue for many years. The major argument advanced in favor of merit selection is that appointed judges do not have to raise campaign funds and are not beholden to contributors and are therefore more likely to be impartial in the administration of justice. The argument in favor of electing judges is that the electorate is in a better position to determine the qualifications of candidates for office than a politicians or a small group of politically connected individuals. A number of questions arise: who would be the appointing authority; the term of the appointed judges; removal of appointed judges from office; will the judges face retention elections; and how frequently will retention elections be held? The controversies surrounding the appointment of federal judges also apply to the question of whether Louisiana judges should be appointed.

### **Judicial Compensation**

Finally, the issue of judicial compensation has been before the legislature in recent years. In 1995, Act 1077 was passed which established the Judicial Compensation Commission. This Act authorized the commission to submit a report to the legislature recommending judicial salaries sixty days prior to the commencement of any regular session of the legislature in even-numbered

years. The salaries, as recommended by the commission, took effect on the first day of July of the year in which the report was submitted if approved by concurrent resolution adopted by a favorable vote of the majority of the elected members of each house. The purpose for creating the Judicial Compensation Commission was to eliminate the politics of having the legislature approve salary increases for the judiciary. *H.C.R 29* in 1996 was approved by the legislature which adopted the report of the commission and provided for a four percent raise for the judiciary to take effect on July 1, 1996, and another four percent raise on July 1, 1997. In 2001, *H.C.R 30* was approved by the legislature which adopted the report of the commission and provided for a five percent raise effective on July first for each of the years of 2001, 2002, and 2003. In 2001, Act 225 was passed by the legislature and while the commission itself was not repealed, the legislature will exercise its authority over judicial salaries pursuant to statutory enactment. Whether the legislature will confer on the commission the authority to decide the appropriate salary of the judiciary or whether the legislature retains this power is a potential issue for the legislature to address.

**LOUISIANA COURT STRUCTURE**  
January 1, 2003



NOTE: This chart has been adapted from the 2003 Annual Report of the Supreme Court of Louisiana.





# STATE AND LOCAL GOVERNMENT IN LOUISIANA: AN OVERVIEW 2004-2008 TERM

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<b>24</b>	<b>Reorganization</b>
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*House Legislative Services*

## Part III. The Executive Branch

The executive branch of state government is charged with responsibility for executing the laws enacted by the legislature, that is, to administer the programs and operations of state government. Therefore, it is the branch of state government which most directly serves the people. Easily the largest branch of government, the governor has overall responsibility for directing its operations so as to assure responsiveness to the people and accomplishment of legislative intent.

### Reorganization

Historically, the executive branch of state government in Louisiana was composed of an ever-growing number of relatively independent agencies. Little or no structure was provided through which the governor might control or direct their operations. Therefore, it was difficult if not impossible for the electorate to hold the governor accountable for the manner in which the agencies functioned and delivered services to the people.

In order to rectify this situation, the constitutional convention delegates recommended and the people adopted, in the Louisiana Constitution which became effective on December 31, 1974, a mandate to the legislature to “allocate, within not more than twenty departments, the functions, powers, duties, and responsibilities of all departments, offices, agencies, and other instrumentalities within the executive branch, except those allocated by this constitution. . . .” The reorganization was to be operative not later than December 31, 1977.

After extensive committee study and careful legislative consideration in three regular sessions, the legislature completed the constitutional mandate by enacting and overseeing the implementation of the Executive Reorganization Act (*Title 36 of the Louisiana Revised Statutes*).

The purpose of this legislation as enacted by the legislature was to create a responsive structure, promote economy and efficiency in government operation, strengthen capacity for effective administration, improve program and service quality, conserve resources, establish departmental responsibility clearly, and eliminate duplication.

### Structure

To accomplish these ends, the reorganization consolidated some 300 independent agencies into twenty departments and the office of the governor. The office of the lieutenant governor is also a separate entity, as provided by the constitution. (See *Organization Chart I*, page 30.)

Though the number of departments remains at twenty as required by the constitution, their names and composition have been changed by the legislature during the years since 1977 by merger, division, and amendment. (See list of the 20 departments below.)

### Officers

The twelve so-called “cabinet” departments, those which are under the direct control of the governor, are each under the direction of a secretary, who is the executive head and chief

#### Purpose of Reorganization of the Executive Branch

*“[T]o create a structure for the executive branch of state government which is responsive to the needs of the people of this state and which is sufficiently flexible to meet changing human and natural conditions; to promote economy and efficiency in the operation and management of state government and to strengthen the executive capacity for effective, efficient, and economic administration at all levels; to improve the quality of the functions performed and the programs and services rendered by state government for the citizens of the state; to conserve and enhance the human and natural resources of the state; to provide that the responsibility of the respective departments for the implementation of programs and policies is clearly fixed and ascertainable; and to eliminate to the fullest practicable extent duplication of effort within the executive branch of state government in order to use wisely the funds of the state and more conveniently to meet the needs of the citizens of Louisiana which are supported by revenues derived from the people and from the natural resources belonging to them.”*

Source: R.S. 36:2

administrative officer of that department. (See *Organization Chart II*, Page 32.) Each secretary has the option of appointing a deputy secretary, subject to Senate confirmation; however, the secretary of the Department of Public Safety and Corrections is required to appoint a deputy secretary for public safety services and a deputy secretary for corrections services, subject to Senate confirmation.

Each cabinet department in the executive branch has an office of management and finance (OMF). (See *discussion below*.) This office is under the direction and control of an undersecretary, who is the chief fiscal and accounting officer of the entire department. However, the Department of Public Safety and Corrections has an office of management and finance for public safety services and an office of management and finance for correction services, each headed by an undersecretary.

#### The Twenty Departments of the Executive Branch

- (1) Department of Agriculture and Forestry
- (2) Department of Culture, Recreation and Tourism
- (3) Department of Economic Development
- (4) Department of Education
- (5) Department of Environmental Quality
- (6) Department of Health and Hospitals
- (7) Department of Insurance
- (8) Department of Justice
- (9) Department of Labor
- (10) Department of Natural Resources
- (11) Department of Public Safety and Corrections
- (12) Department of Public Service
- (13) Department of Revenue
- (14) Department of Social Services
- (15) Department of State
- (16) Department of State Civil Service
- (17) Department of Transportation and Development
- (18) Department of the Treasury
- (19) Department of Veterans Affairs
- (20) Department of Wildlife and Fisheries

Source: *Title 36 of the Revised Statutes (as amended through the 2003 Regular Session)*

Generally each department has several statutorily created offices which are the organizational units through which programs are administered. (No such program offices are specified for the Department of Veterans Affairs.) An assistant secretary is the head of an office. Certain assistant secretaries bear other titles as well as the title of assistant secretary, such as the state librarian, the director of the Louisiana State Museum, and the commissioner of conservation. (These officers are the assistant secretaries of the office of the state library and the office of the state museum of the Department of Culture, Recreation and Tourism, and the office of conservation of the Department of Natural Resources, respectively.)

Secretaries, undersecretaries, and assistant secretaries of cabinet departments are generally appointed by the governor, with consent of the Senate, and serve at his pleasure. The Department of Culture, Recreation and Tourism (DCRT) is a significant exception to this rule, as 1986 legislation placed that department in the office of the lieutenant governor who was made the department commissioner. The DCRT officers are appointed by the lieutenant governor and the secretary performs his functions under the general direction of the lieutenant governor. (However, the deputy secretary of DCRT is appointed by the secretary.) Other exceptions relative to appointment of officers of the various departments are noted on the organizational charts at the end of this Part. In most cases, the salaries of department officers are set by the governor, not to exceed the amount approved for them by the legislature during session (usually through the appropriations process). The salaries of DCRT officers are set by the lieutenant governor (except the deputy secretary's is set by the secretary) subject to legislatively approved limits.

The other eight departments include the Department of State Civil Service, which is under the jurisdiction of the State Civil Service Commission (*See Organization Chart II on page 32.*) and seven departments under the jurisdiction of elected state officials. (These include five statewide elected officials, the Public Service Commission, and the superintendent of education who formerly was elected but now is appointed by the partially elected Board of Elementary and Secondary Education.) (*See Organization Chart III on page 34.*) The structure of these eight departments is much like that of the cabinet departments, although department officers often have different titles such as "commissioner" or "superintendent". In some of these departments – the smaller ones – functions are consolidated in the department's chief executive officer and his office. In these cases, structure is not detailed in the law so as not to overstructure a small department. Officers of departments under elected state officials are generally appointed by the official heading that department, with consent of the Senate, and serve at that official's pleasure. Their salaries are usually set by the same official, subject to legislatively approved limits.

Salaries of the governor and statewide elected officials are governed by statute. A 1995 Act increased the governor's salary to \$95,000 and made the salaries of the other statewide elected officials the same as that of the chief justice of the Supreme Court as of October 1, 1995 (\$85,000), all effective January 8, 1996. Legislation in 1999 created a Compensation Review Commission charged with study of the salaries payable to statewide elected officials and members of the legislature. It provides that the commission submit its recommendations concerning the salaries of these officials to the legislature 60 days prior to the commencement of any regular session of the legislature in an odd-numbered year. The salaries recommended in the report take effect if approved by concurrent resolution adopted by a favorable majority vote of the elected members of each house and become effective on the day recommended by the commission in its report and included in the Resolution. The concurrent resolution must be adopted in accordance with the same procedures and formalities required for the passage of

a bill, except for submission to the governor. As yet, no salary changes have been adopted pursuant to this procedure, though the commission has made recommendations as provided by law.

### **Office of Management and Finance (OMF)**

The office of management and finance is probably the most essential feature of each department. This office is responsible for accounting and budget control, procurement and contract management, management and program analysis, data processing, personnel management, grants management, and fiscal oversight and program evaluation for the entire department. R.S. 36:8 specifically requires each OMF to evaluate programs and operations of the department and its agencies, to determine if they are meeting their goals and objectives, are effective and efficient, and what specific changes, if any, should be made in them. An OMF in each department provides the means for centralized accountability to the governor for the operations of the executive branch. It provides tools for department oversight and control of operations of its offices and agencies. It facilitates oversight of the department and its agencies by the legislature. The implications for cost control are evident.

### **Transfer Types**

To accomplish the merger and consolidation of agencies into the twenty departments, the Executive Reorganization Act provides for various transfer mechanisms, referred to informally as “transfer types”, which are provisions detailing how agencies are placed within a department. The type of transfer determines the degree to which the agency continues to exercise its own functions, the degree of agency independence from the department officers, and the degree of department control over the agency, particularly in fiscal and personnel matters. In other words, the transfer type determines the extent to which the agency and its functions are integrated into the department.

There are a number of different transfer types, some of which are tailored to provide independence for some particular function of an agency or which otherwise provide specifically for the agency. Without going into detail concerning each transfer type, it is possible to identify five general major categories:

- (1) Those which provide that the agency is totally independent.
- (2) Those in which the agency maintains a great deal of independence, controlling its own policy and personnel and fiscal matters for policy and regulatory functions.
- (3) Those in which the agency remains independent in policymaking and regulatory matters, but for which the department controls personnel and fiscal matters.
- (4) Those which make the agency advisory only.
- (5) Those which provide that the department totally controls the agency (usually institutions or facilities).

In addition, a great number of agencies have been abolished and their functions transferred to a department, to be performed by the department offices. Examples of transfer types which are variations on these categories, but are tailored to fit particular agencies or types of agencies,

include those which specifically provide for licensing boards, retirement systems, and agricultural promotion agencies.

<b>Types of Transfers of Executive Branch Agencies*</b>		
<i>Type</i>	<i>Description</i>	<i>Citation</i>
1.1 Totally independent	Agency continues to administer and implement all of its functions and programs, including office of management and finance (OMF) functions, i.e. accounting and budget control, procurement and contract management, management and program analysis, data processing, personnel management, and grants management. Board or agency head is appointing authority. Agency implements functions and programs independently of department officers.	R.S. 36:801.1
1 Partly independent	Agency continues to be composed and selected as provided by law; retains all of its policymaking, rulemaking, licensing, regulation, enforcement, or adjudication powers and functions; administers and implements these functions. Agency head is appointing authority relative to such functions, subject to budgetary control and applicable laws. Secretary and undersecretary perform only certain administrative, budgetary, and accounting functions. Secretary exercises payroll, personnel management, procurement and contract management functions (except retirement systems).	R.S. 36:801
2 Policymaking	Agency continues to be composed and selected as provided by law; retains all of its policymaking, rulemaking, licensing, regulation, enforcement, or adjudication powers and functions (to be exercised independently of secretary and any assistant secretary). Secretary (not agency head) is appointing authority, except assistant secretaries appoint personnel for their offices and for agencies in them. Implementation and administration is department officers' responsibility. Undersecretary performs OMF functions.	R.S. 36:802
3 Nonindependent	Agency's powers, duties, and functions are transferred to the secretary, who determines how they are to be carried out (subject to office functions provided by law).	R.S. 36:851 et seq.
4 Advisory	Same as Type 3 above except that the agency becomes advisory only.	R.S. 36:901 et seq.
Agency Abolished	Agency is abolished; its powers, duties, and functions are transferred as for Type 3 above.	R.S. 36:921 et seq.

\* Only general major categories of transfers included; there are many other transfers tailored for individual agencies.

### Organization Charts

The following organization charts diagram the internal structure of each of the twenty departments of the executive branch as provided in the Executive Reorganization Act (*Title 36 of the Revised Statutes*). Each chart includes a listing of the functions of each department office

or administrative section as well as a listing of the boards and commissions attached to that department. Following each chart is a list of each agency in the department, with the legal citation of its transfer type, and each abolished agency whose functions are now exercised by the department. Below the list is information about the number of employees for each department and its budget for the 2003-2004 Fiscal Year.

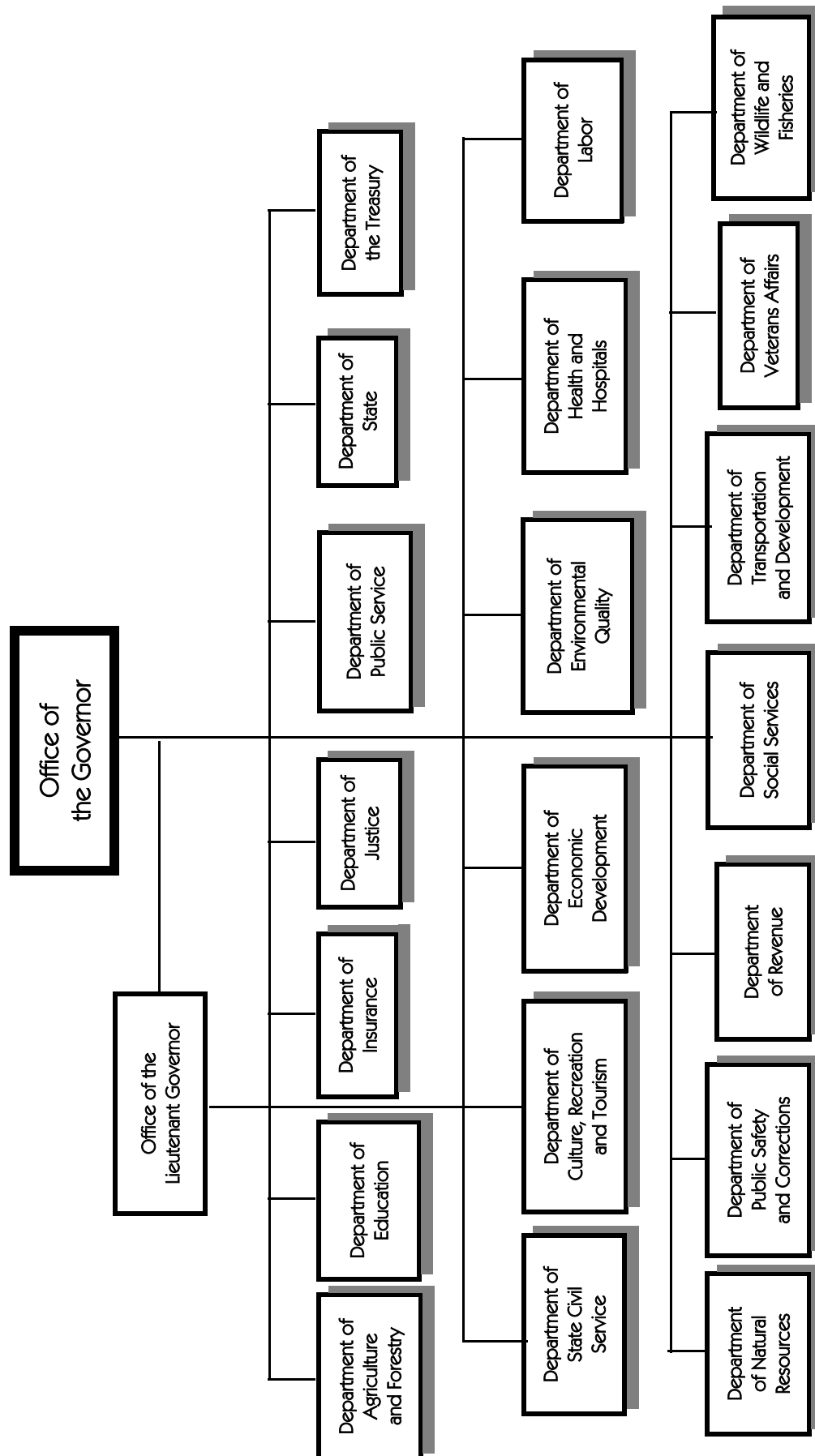
The budget amount shown for each department is the total means of financing for the department as reported by the office of planning and budget in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004*, published by the office of planning and budget of the division of administration on July 24, 2003. The figure shown for each department includes total appropriated funds in the General Appropriation Act, adjusted for State General Fund reductions mandated in the Act's Preamble. It does not include amounts which may be attributable to a particular department or its agencies but which are included under headings such as "Other requirements", "Retirement", "Non-Appropriated", or "Ancillary Appropriations".

Two sets of employee data are provided. The first set is the number of authorized positions for each department as contained in the same July 24, 2003, report cited above prepared by the office of planning and budget. For comparison, employment figures reported by the Department of State Civil Service are also provided. (Classified employees in the State Police Service are also included in the Department of Public Safety and Corrections.) The office of planning and budget figures are only for department organizational units and agencies which are included in the department budget. Also, these figures have been computed in terms of full-time equivalent positions. The civil service figures are the total number of employees for the department and all of its agencies as of September 30, 2003. (These are actual employees, while the office and planning and budget figures are authorized positions.) In the civil service figures, unclassified employees include not only regular unclassified employees, but such personnel as members of boards and commissions; students; faculty of colleges, universities, vocational-technical schools, and special schools; and certain hourly employees. The civil service figures are not converted to full-time equivalents; part-time employees are counted as employees in the same way as full-time employees. The office of planning and budget figures do not include many positions which are included in the civil service figures, such as members of boards and commissions, students, etc. and, to reiterate, they include only positions which are included in the department budget and they are converted to full-time equivalents.

Following the department organization charts is a listing of those agencies placed in the office of the governor by Title 36. Also provided is a listing of those agencies of the executive branch created by legislative Act but not properly placed in the executive branch by inclusion in the provisions of Title 36.

# I. DEPARTMENTS OF THE EXECUTIVE BRANCH

## STATE OF LOUISIANA

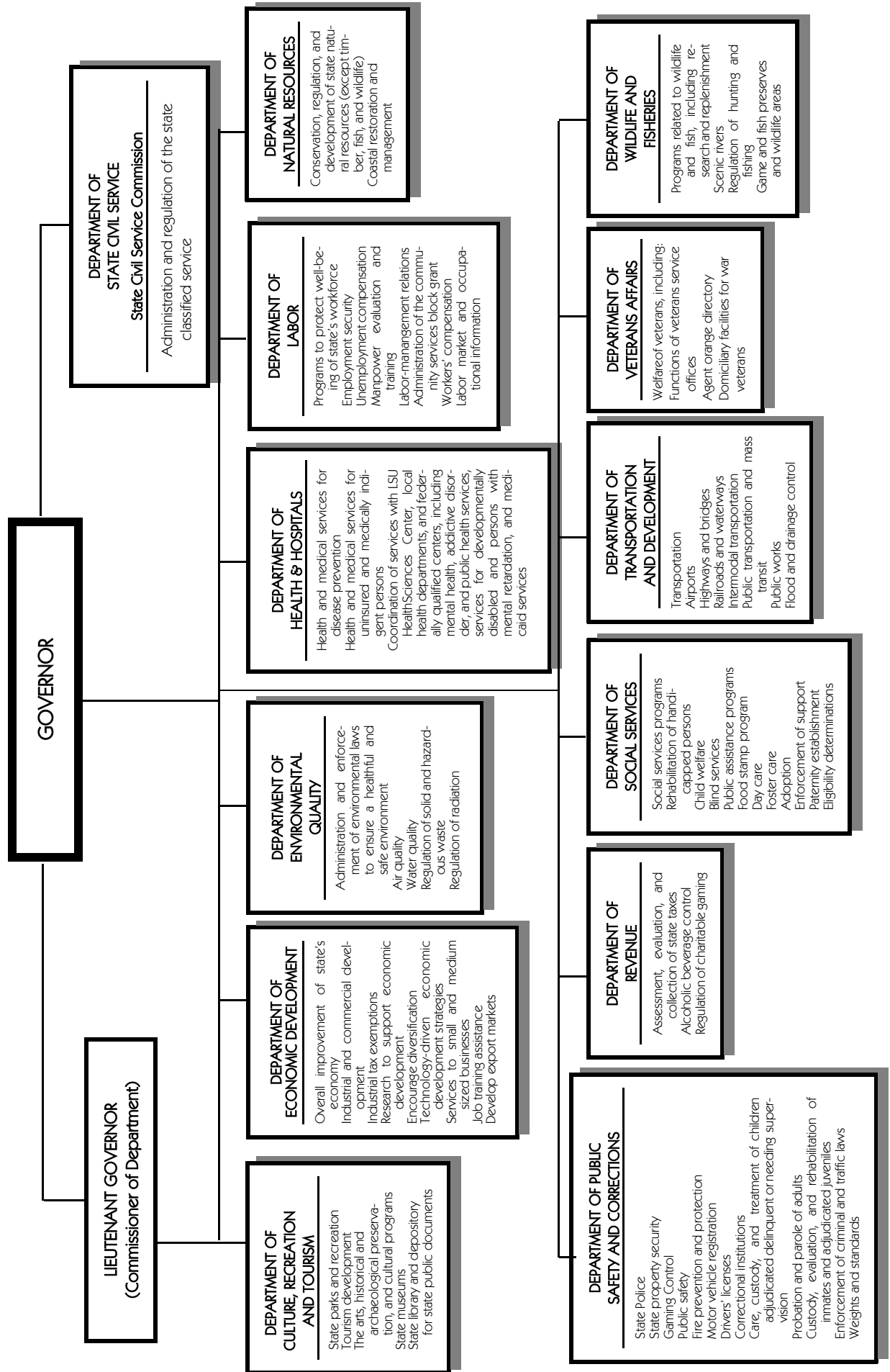






## II. THE DEPARTMENTS UNDER THE DIRECT CONTROL OF THE GOVERNOR AND THE DEPARTMENT OF CIVIL SERVICE

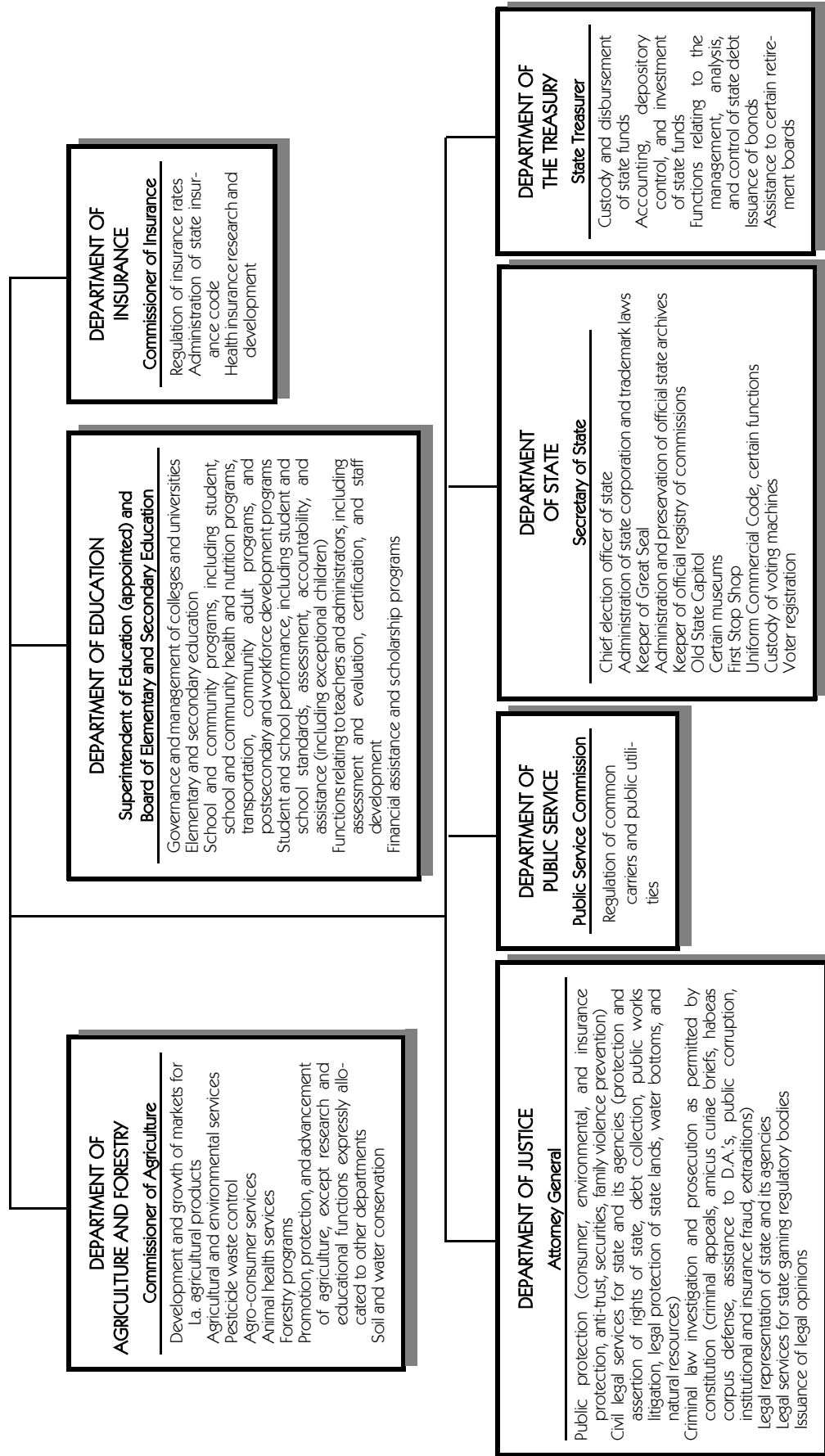
### STATE OF LOUISIANA





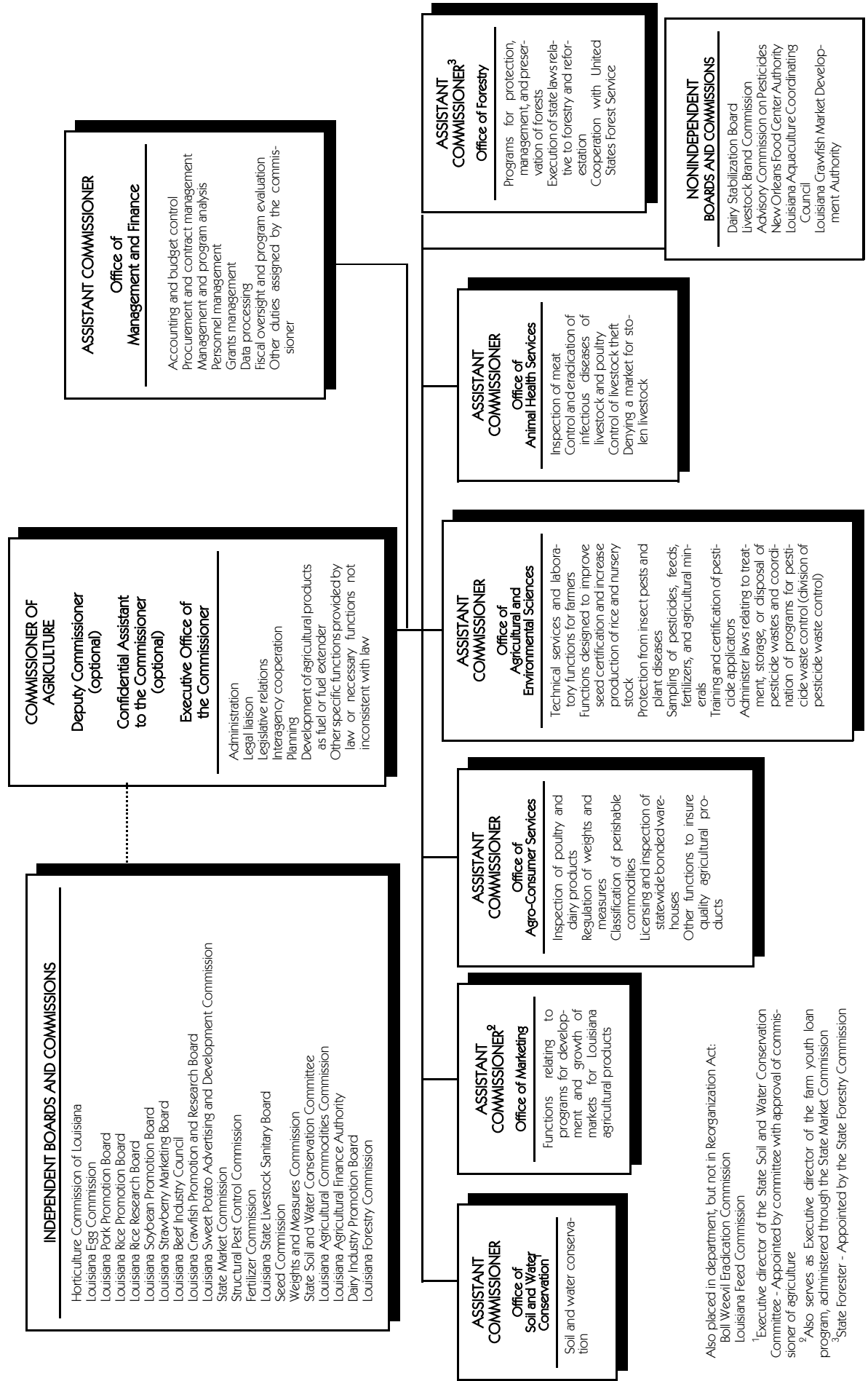
### III. THE DEPARTMENTS UNDER ELECTED STATE OFFICIALS AND THE DEPARTMENT OF EDUCATION

#### STATE OF LOUISIANA





# DEPARTMENT OF AGRICULTURE AND FORESTRY



Also placed in department, but not in Reorganization Act:

Boll Weevil Eradication Commission  
Louisiana Feed Commission

<sup>1</sup>Executive director of the State Soil and Water Conservation Committee - Appointed by committee with approval of commissioner of agriculture

<sup>2</sup>Also serves as Executive director of the farm youth loan program, administered through the State Market Commission

<sup>3</sup>State Forester - Appointed by the State Forestry Commission

## DEPARTMENT OF AGRICULTURE AND FORESTRY

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$97,152,151

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 831

Total unclassified: 51

Total classified: 780

***Total Employees (Actual)<sup>3</sup>:*** 1,388

Total unclassified: 598

Total classified: 790

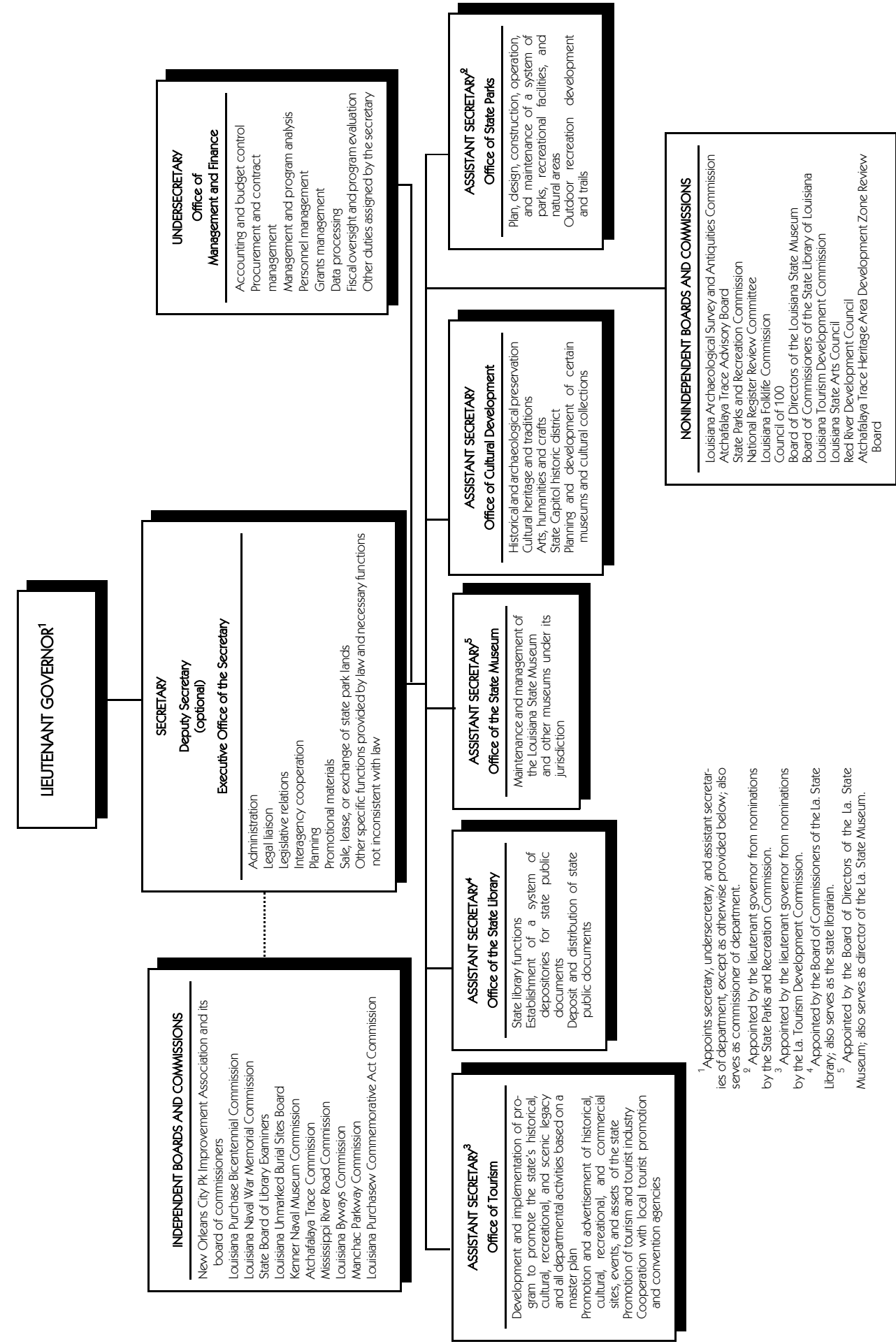
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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

<sup>2</sup> Total positions budgeted for the department (includes funded appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the budget. Source is *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004*, July 24, 2003.

<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

# DEPARTMENT OF CULTURE, RECREATION AND TOURISM



<sup>1</sup> Appoints secretary, undersecretary, and assistant secretaries of department, except as otherwise provided below; also serves as commissioner of department.

<sup>2</sup> Appointed by the lieutenant governor from nominations by the State Parks and Recreation Commission.

<sup>3</sup> Appointed by the lieutenant governor from nominations by the La. Tourism Development Commission.

<sup>4</sup> Appointed by the Board of Commissioners of the La. State Library, also serves as the state librarian.

<sup>5</sup> Appointed by the Board of Directors of the La. State Museum, also serves as director of the La. State Museum.



## DEPARTMENT OF CULTURE, RECREATION AND TOURISM

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$66,596,146

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 689

Total unclassified: 11

Total classified: 678

***Total Employees (Actual)<sup>3</sup>:*** 1,280

Total unclassified: 570

Total classified: 710

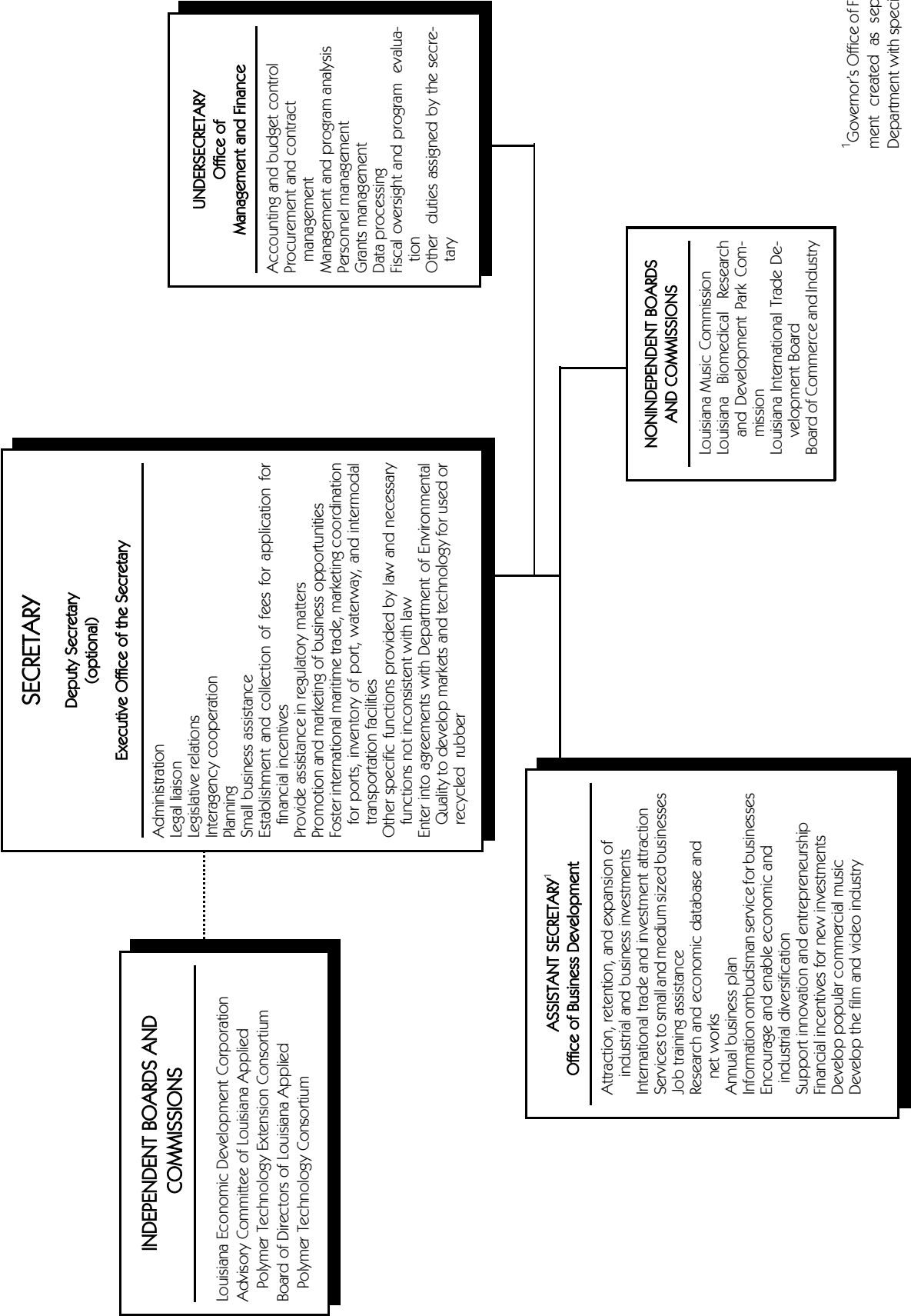
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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

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<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF ECONOMIC DEVELOPMENT



<sup>1</sup> Governor's Office of Film and Development created as separate agency in Department with specified duties

## DEPARTMENT OF ECONOMIC DEVELOPMENT

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$59,279,337

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 101

Total unclassified:	26
Total classified:	75
<b><i>Total Employees (Actual)<sup>3</sup>:</i></b>	180
Total unclassified:	112
Total classified:	68

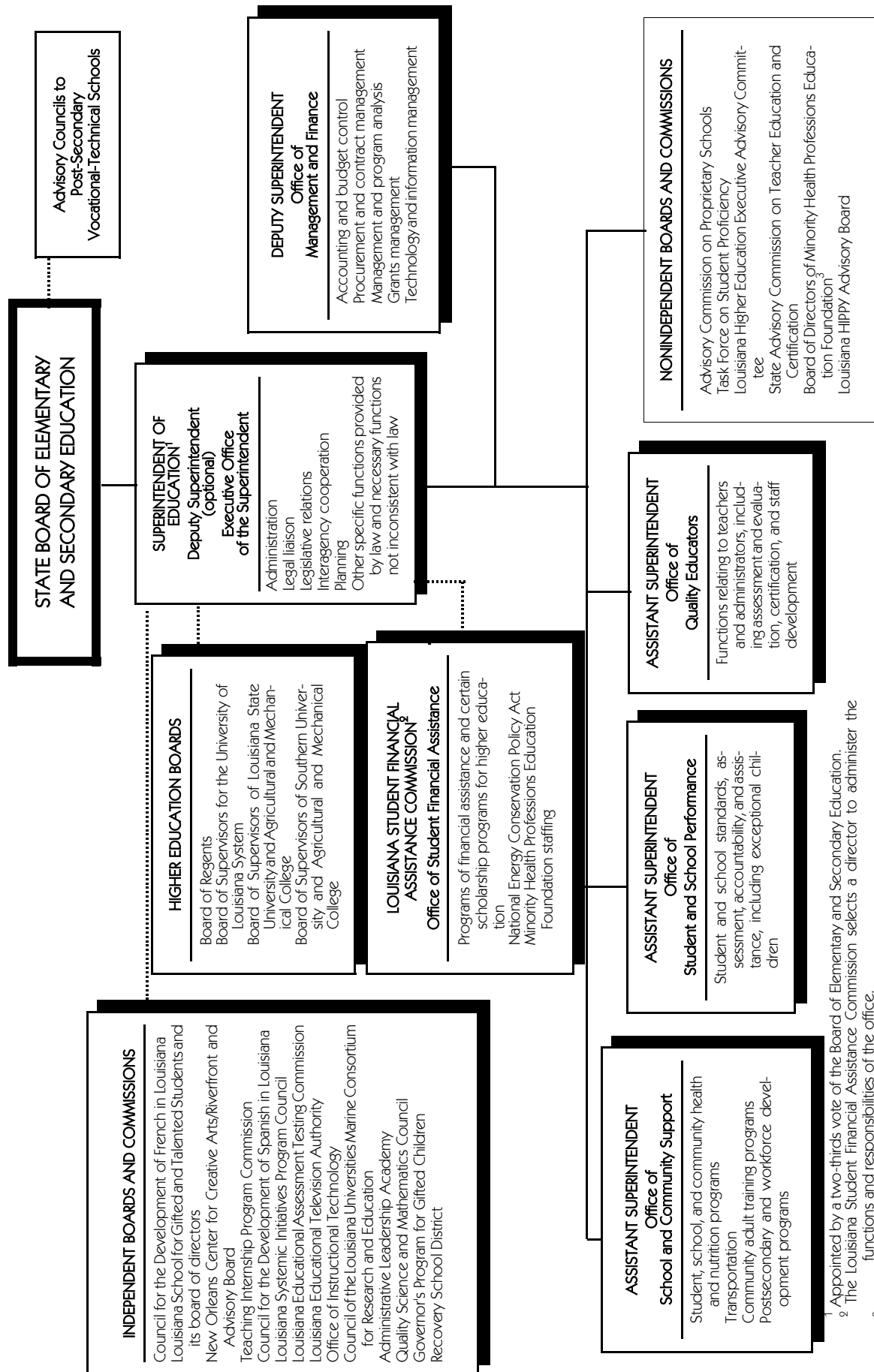
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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

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<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

# DEPARTMENT OF EDUCATION



Not placed in department by law: Board of Supervisors of Community and Technical Colleges

<sup>1</sup> Appointed by a two-thirds vote of the Board of Elementary and Secondary Education.

<sup>2</sup> The Louisiana Student Financial Assistance Commission selects a director to administer the functions and responsibilities of the office.

<sup>3</sup> In office of student financial assistance.

## DEPARTMENT OF EDUCATION

### ***Budget for 2003-2004 Fiscal Year<sup>1</sup>:***

\$2,222,667,586	Higher Education
239,958,344	Special Schools & Commissions
68,121,034	LSUMC Health Care Services
<u>3,669,107,863</u>	Dept. of Education
\$6,199,854,827	TOTAL

### ***Budgeted and Authorized FTE Department Positions<sup>2</sup>: 2,225***

Higher Education Total	161
Total unclassified:	125
Total classified:	36
Other Education Total	1,045
Total unclassified:	392
Total classified:	653
LSU Health Care Services Division Total	--
Total unclassified:	--
Total classified:	--
Dept. of Education Total	1,019
Total unclassified:	416
Total classified:	603

<b><i>Total Employees (Actual)<sup>3</sup>:</i></b>	49,566
Total unclassified:	28,007
Total classified:	21,559

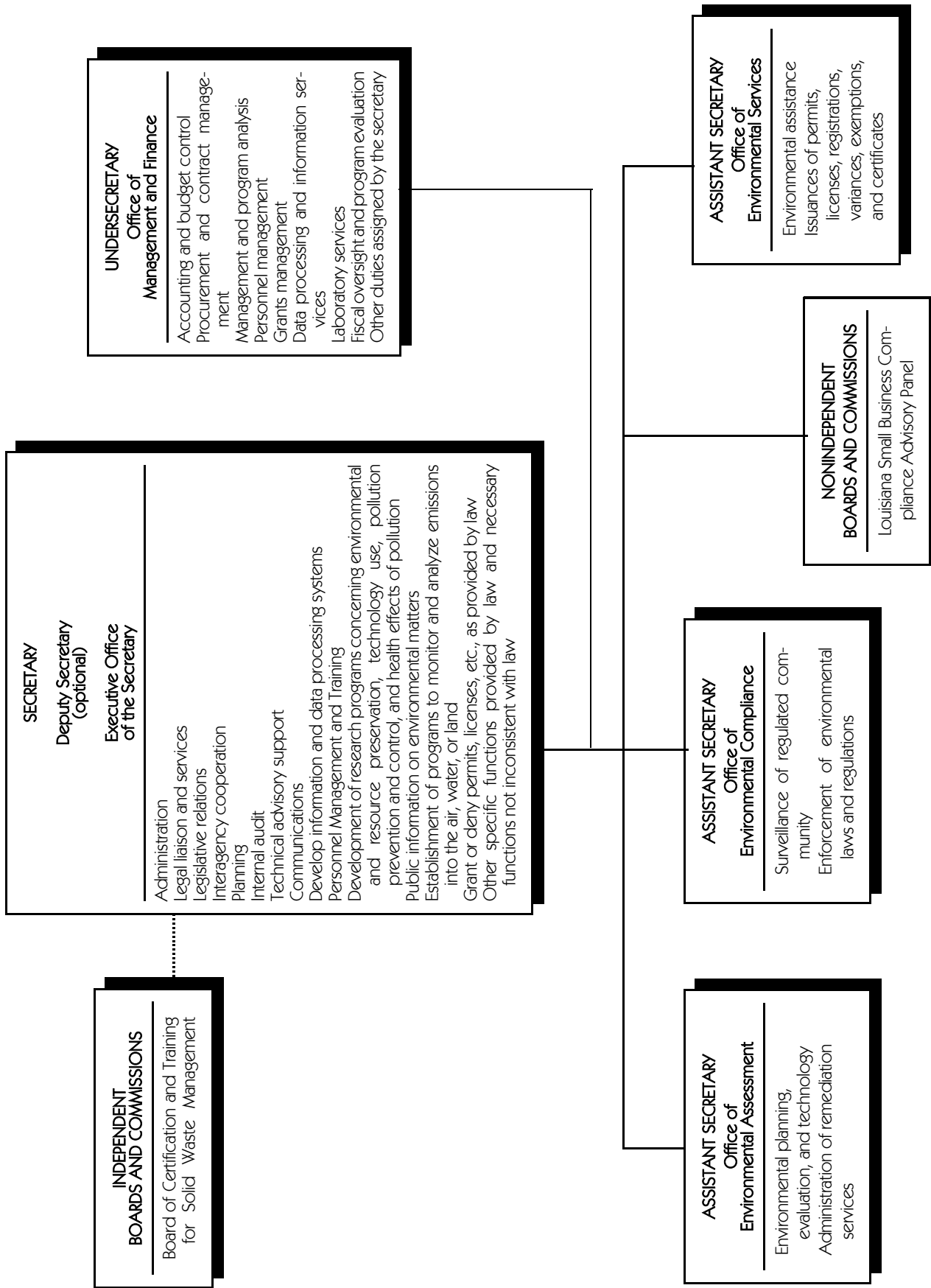
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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

<sup>2</sup> Total positions budgeted for the department (includes funded appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the budget. Source is *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004*, July 24, 2003.

<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

# DEPARTMENT OF ENVIRONMENTAL QUALITY



## DEPARTMENT OF ENVIRONMENTAL QUALITY

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$138,757,102

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 1,010

Total unclassified:	7
Total classified:	1,003
<b><i>Total Employees (Actual)<sup>3</sup>:</i></b>	<b>1,032</b>
Total unclassified:	78
Total classified:	954

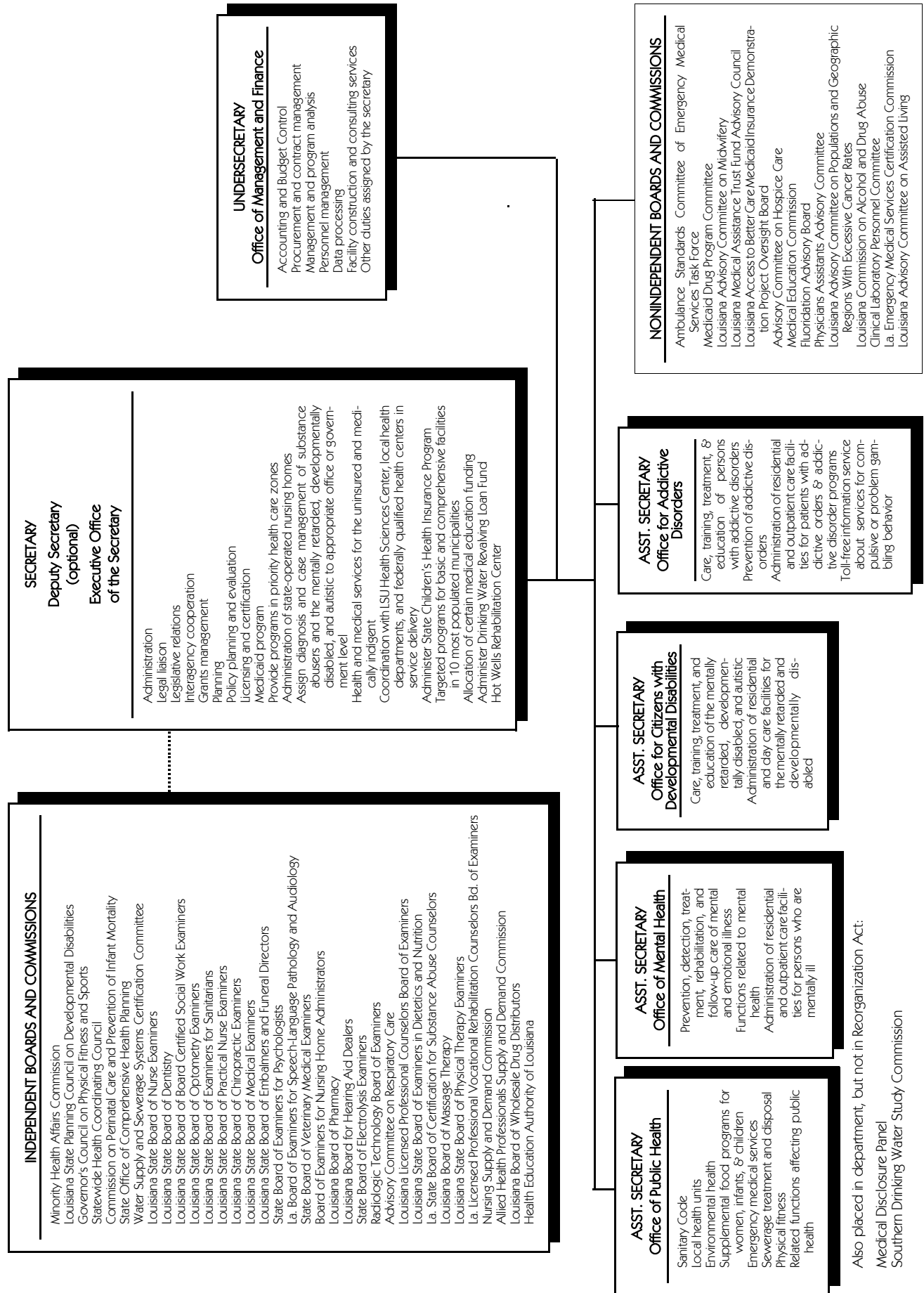
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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

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<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

# DEPARTMENT OF HEALTH AND HOSPITALS



Also placed in department, but not in Reorganization Act:  
Medical Disclosure Panel  
Southern Drinking Water Study Commission



## DEPARTMENT OF HEALTH AND HOSPITALS

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$5,977,275,365

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 12,842

Total unclassified: 172

Total classified: 12,670

***Total Employees (Actual)<sup>3</sup>:*** 13,709

Total unclassified: 962

Total classified: 12,747

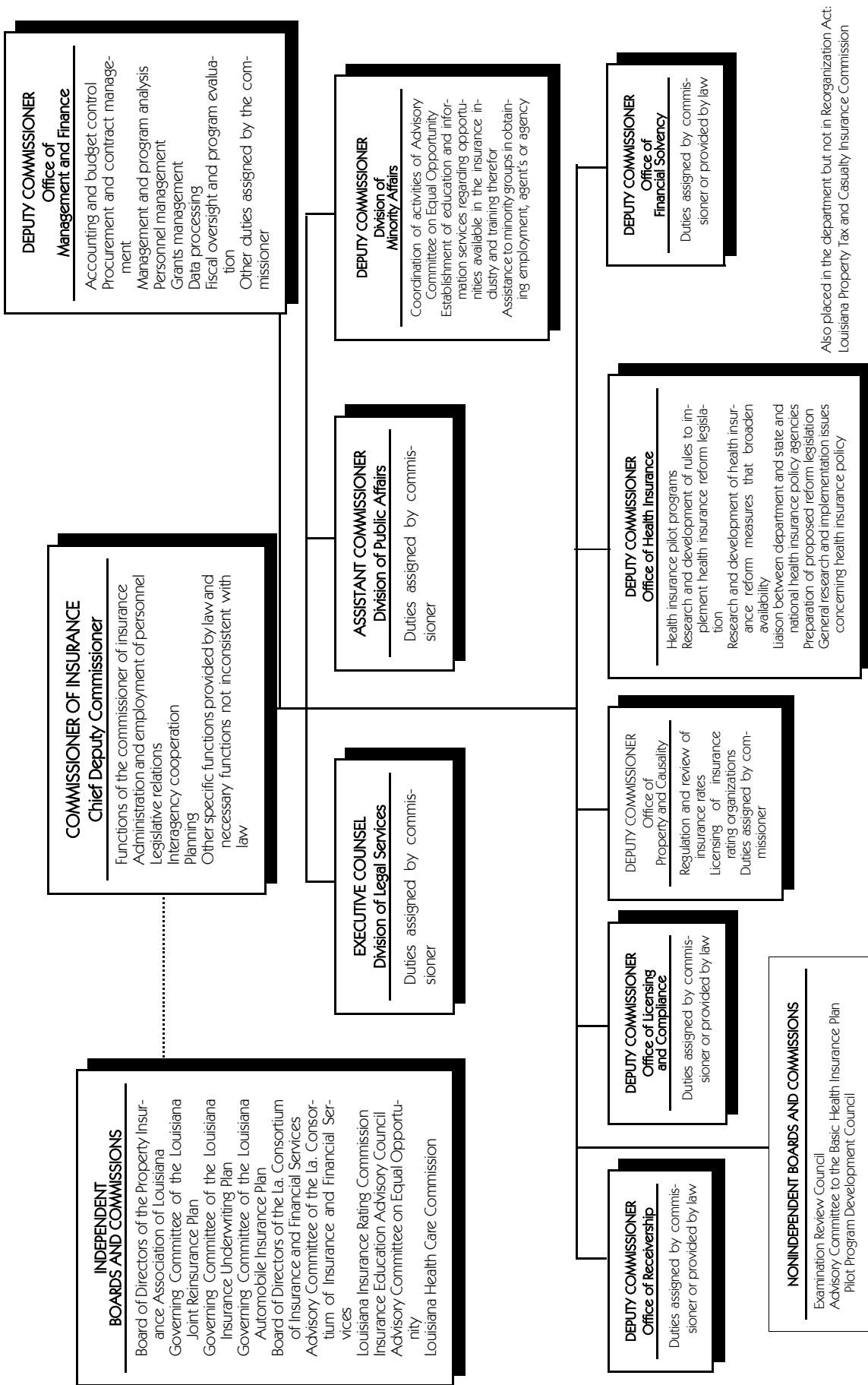
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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

<sup>2</sup> Total positions budgeted for the department (includes funded appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the budget. Source is *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004*, July 24, 2003.

<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

# DEPARTMENT OF INSURANCE



Also placed in the department but not in Reorganization Act:  
Louisiana Property Tax and Casualty Insurance Commission

## DEPARTMENT OF INSURANCE

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$24,214,359

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 273

Total unclassified:	27
Total classified:	246

<b><i>Total Employees (Actual)<sup>3</sup>:</i></b>	340
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Total unclassified:	85
Total classified:	255

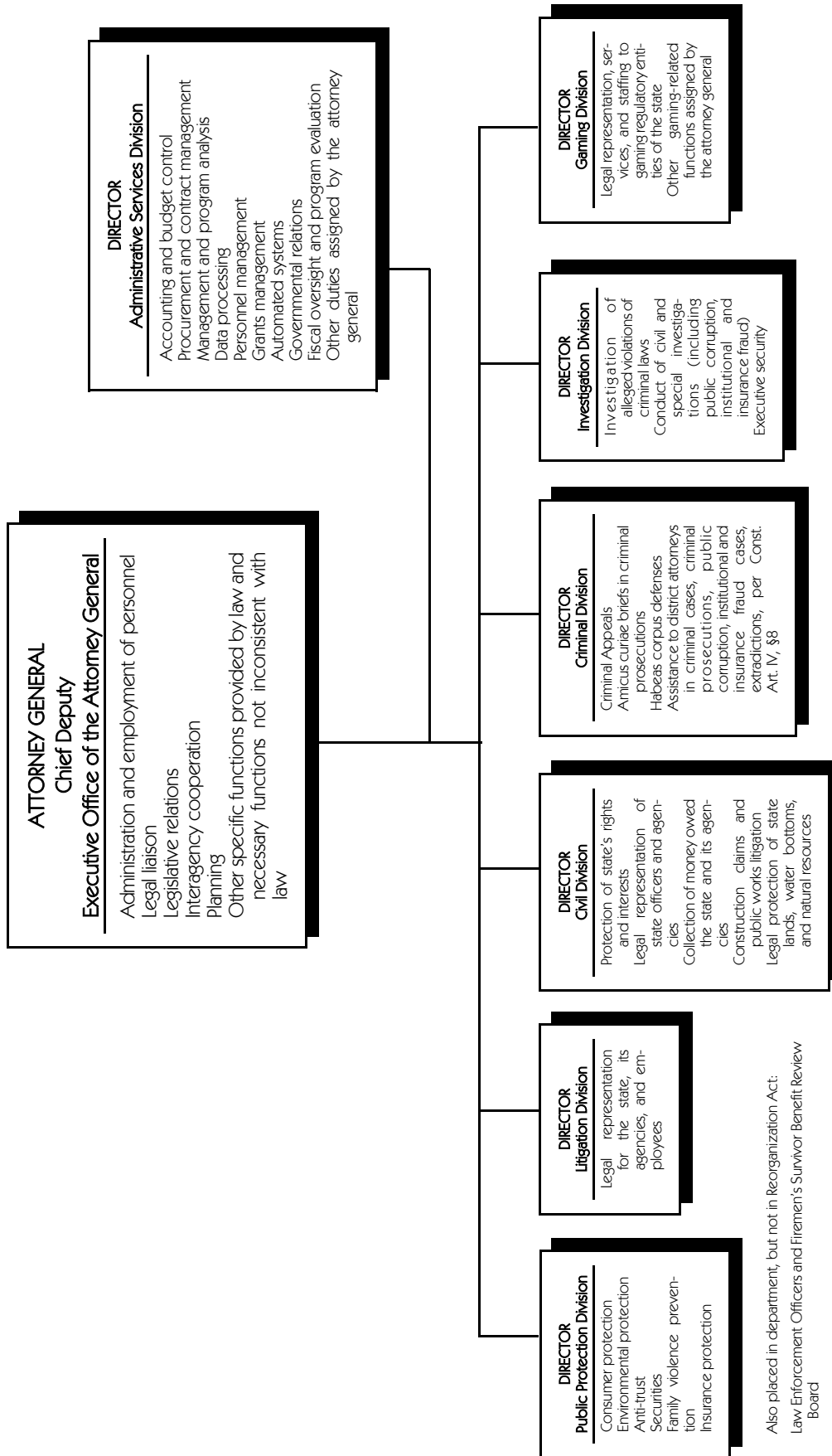
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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

<sup>2</sup> Total positions budgeted for the department (includes funded appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the budget. Source is *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004*, July 24, 2003.

<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

# DEPARTMENT OF JUSTICE



Also placed in department, but not in Reorganization Act:  
Law Enforcement Officers and Firemen's Survivor Benefit Review Board

## DEPARTMENT OF JUSTICE

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$37,996,487

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 458

Total unclassified:	458
Total classified:	0

***Total Employees (Actual)<sup>3</sup>:*** 482

Total unclassified:	482
Total classified:	0

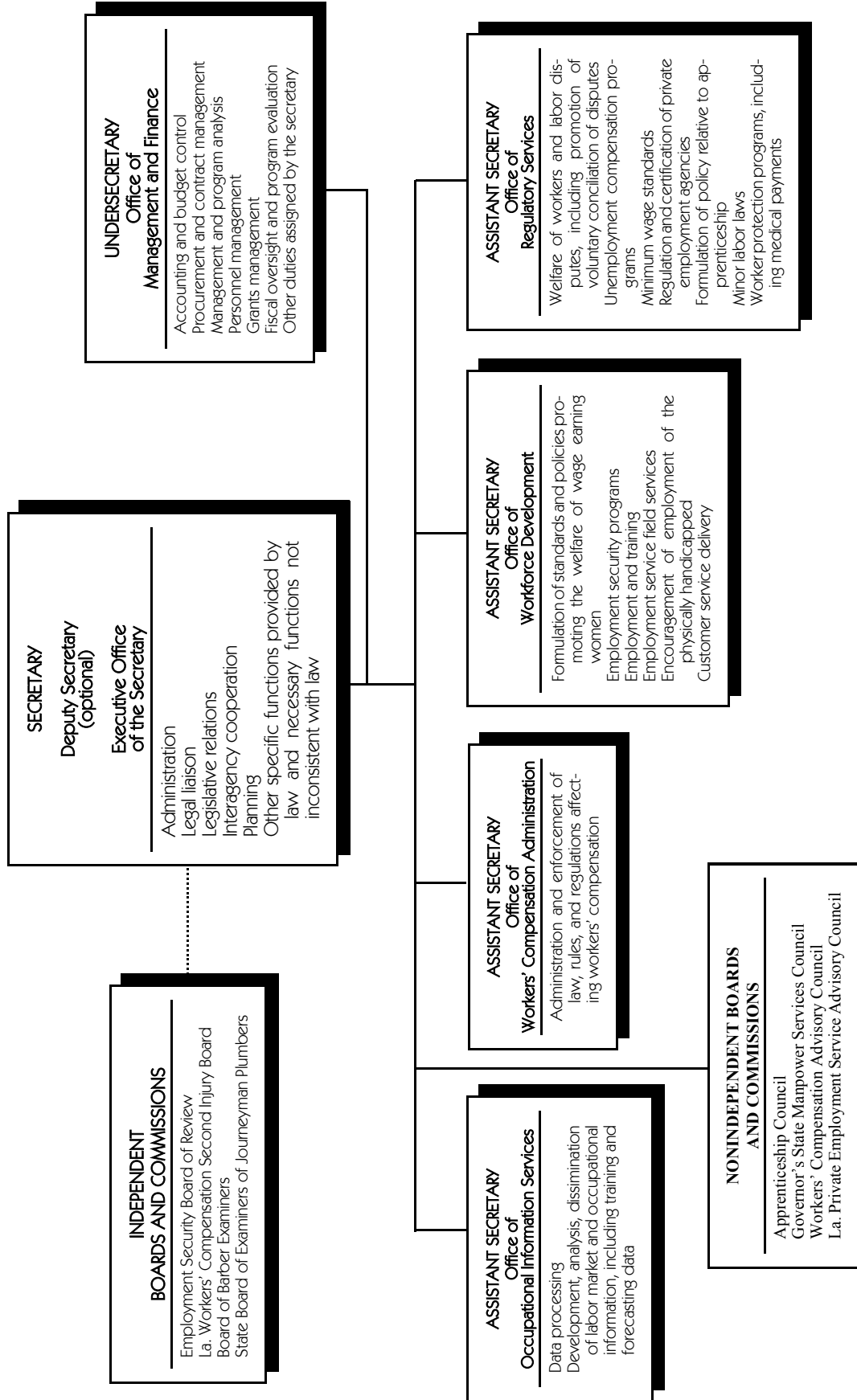
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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

<sup>2</sup> Total positions budgeted for the department (includes funded appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the budget. Source is *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004*, July 24, 2003.

<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

# DEPARTMENT OF LABOR



## DEPARTMENT OF LABOR

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$229,192,782

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 1,208

Total unclassified:	9
Total classified:	1,199

***Total Employees (Actual)<sup>3</sup>:*** 1,364

Total unclassified:	210
Total classified:	1,154

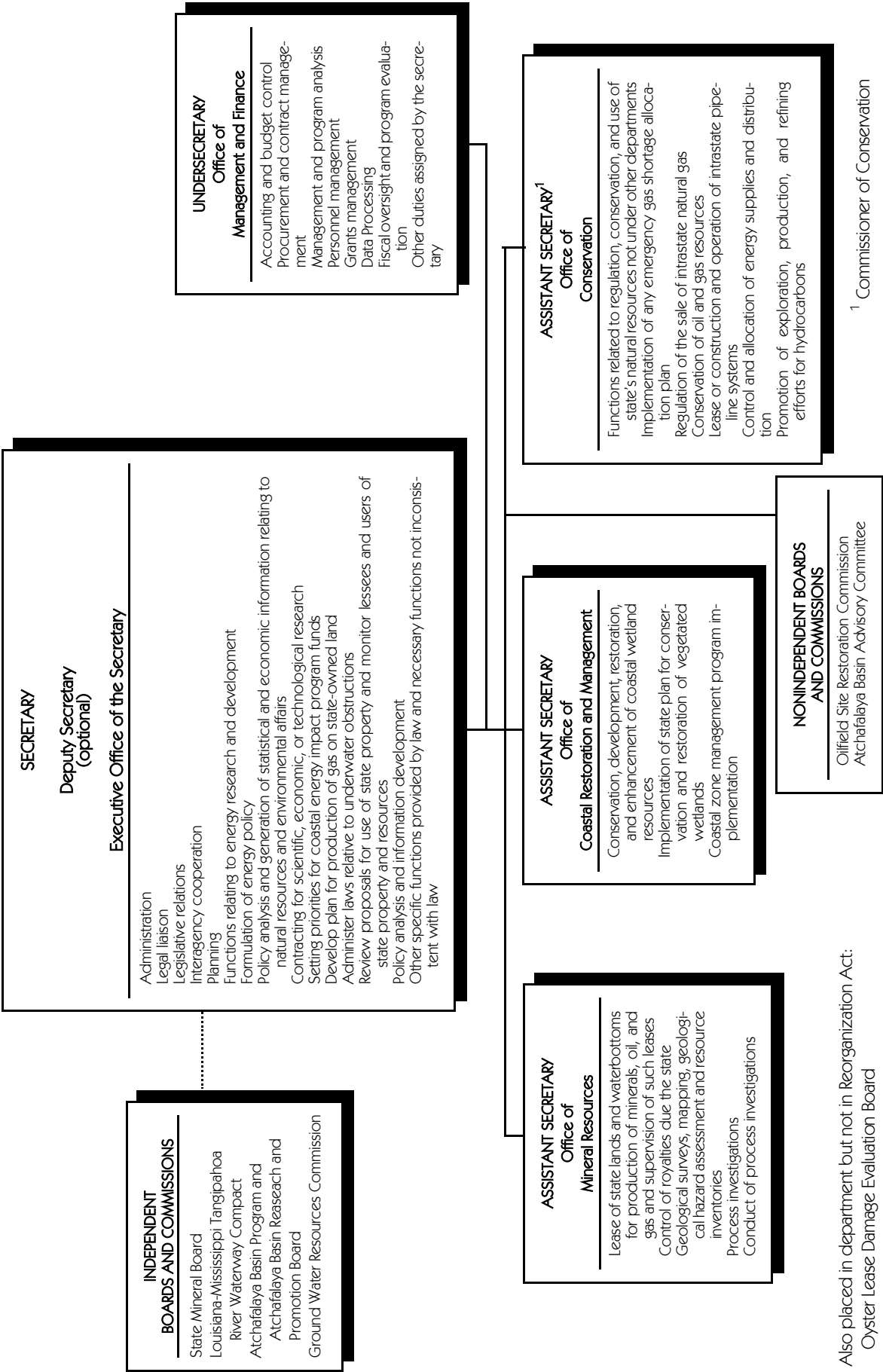
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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

<sup>2</sup> Total positions budgeted for the department (includes funded appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the budget. Source is *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004*, July 24, 2003.

<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF NATURAL RESOURCES



Also placed in department but not in Reorganization Act:  
Oyster Lease Damage Evaluation Board



## DEPARTMENT OF NATURAL RESOURCES

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$133,923,513

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 505

Total unclassified:	11
Total classified:	494
<b><i>Total Employees (Actual)<sup>3</sup>:</i></b>	580
Total unclassified:	73
Total classified:	507

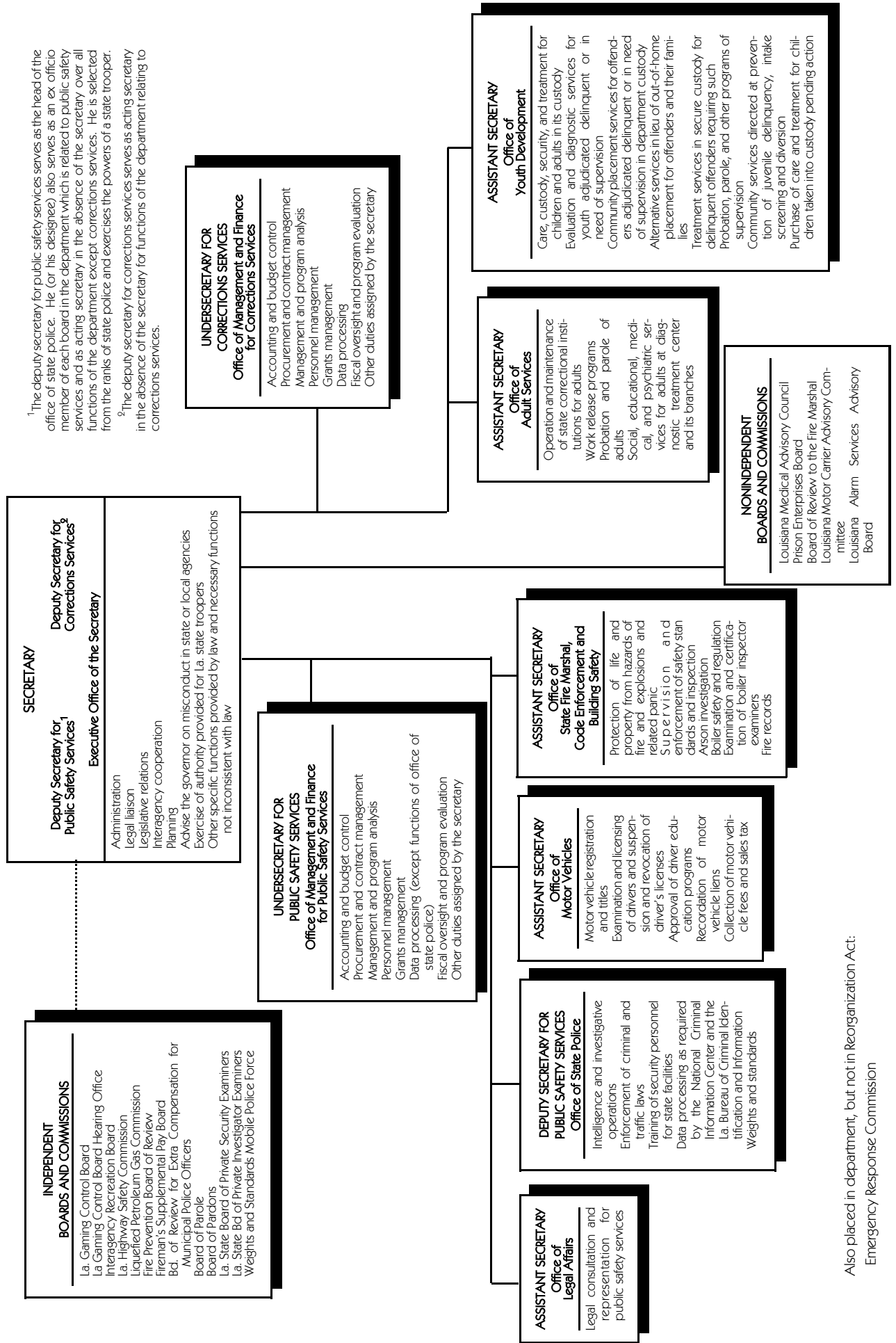
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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

<sup>2</sup> Total positions budgeted for the department (includes funded appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the budget. Source is *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004*, July 24, 2003.

<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

# DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS



<sup>1</sup>The deputy secretary for public safety services serves as the head of the office of state police. He (or his designee) also serves as an ex officio member of each board in the department which is related to public safety services and as acting secretary in the absence of the secretary over all functions of the department except corrections services. He is selected from the ranks of state police and exercises the powers of a state trooper.

<sup>2</sup>The deputy secretary for corrections services serves as acting secretary in the absence of the secretary for functions of the department relating to corrections services.

Also placed in department, but not in Reorganization Act:  
Emergency Response Commission

## DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS

### ***Budget for 2003-2004 Fiscal Year<sup>1</sup>:***

\$ 532,283,710	Corrections Services
<u>329,003,101</u>	Public Safety Services
\$ 861,287,421	TOTAL

### ***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 10,806

Corrections Services Total	7,918
Total unclassified:	257
Total classified:	7,661
Public Safety Services Total	2,888
Total unclassified:	22
Total classified:	2,866

### ***Total Employees (Actual)<sup>3</sup>:*** 11,092

Total unclassified:	620
Total classified:	10,472

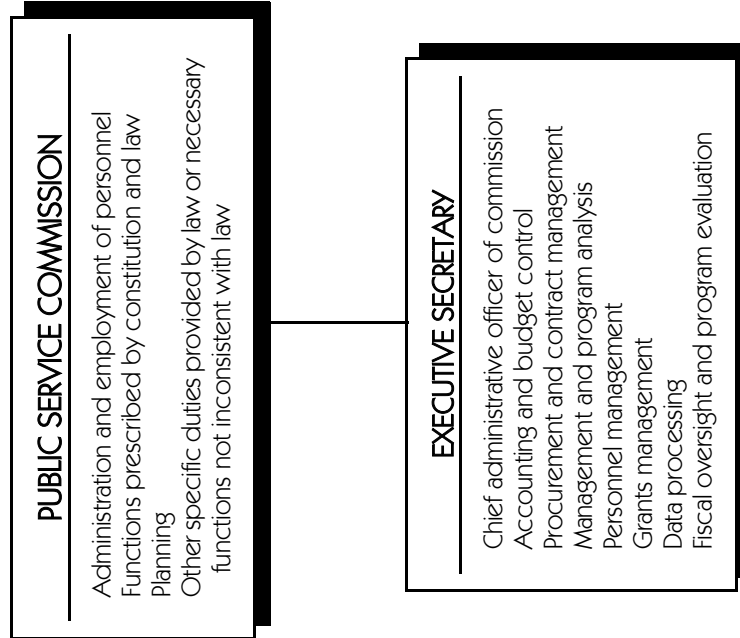
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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

<sup>2</sup> Total positions budgeted for the department (includes funded appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the budget. Source is *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004*, July 24, 2003.

<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

## DEPARTMENT OF PUBLIC SERVICE



## DEPARTMENT OF PUBLIC SERVICE

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$7,881,040

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 122

Total unclassified:	17
Total classified:	105

***Total Employees (Actual)<sup>3</sup>:*** 131

Total unclassified:	30
Total classified:	101

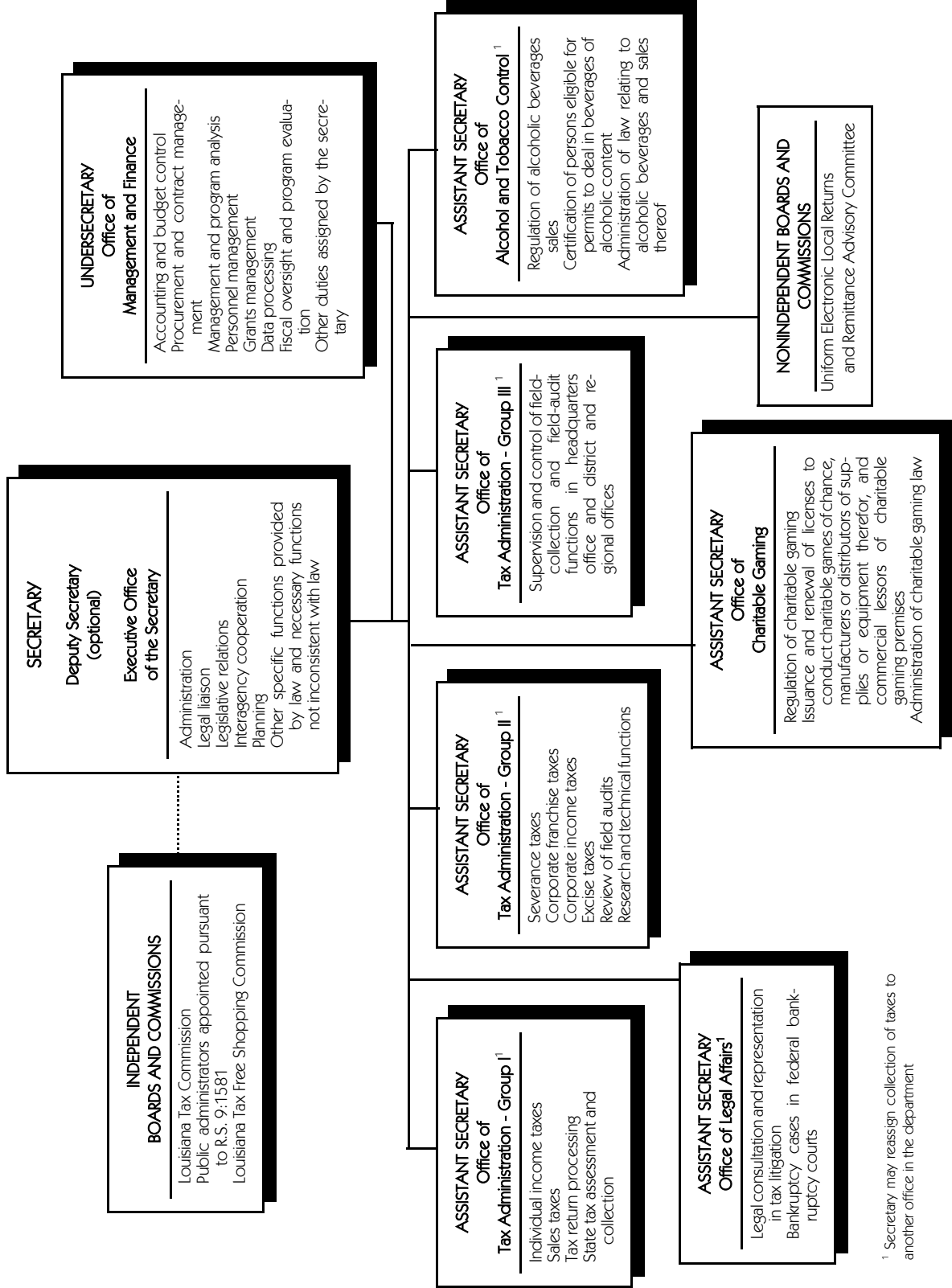
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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

<sup>2</sup> Total positions budgeted for the department (includes funded appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the budget. Source is *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004*, July 24, 2003.

<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

# DEPARTMENT OF REVENUE



<sup>1</sup> Secretary may reassign collection of taxes to another office in the department

## DEPARTMENT OF REVENUE

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$80,865,313

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 942

Total unclassified: 25

Total classified: 917

***Total Employees (Actual)<sup>3</sup>:*** 1,079

Total unclassified: 180

Total classified: 898

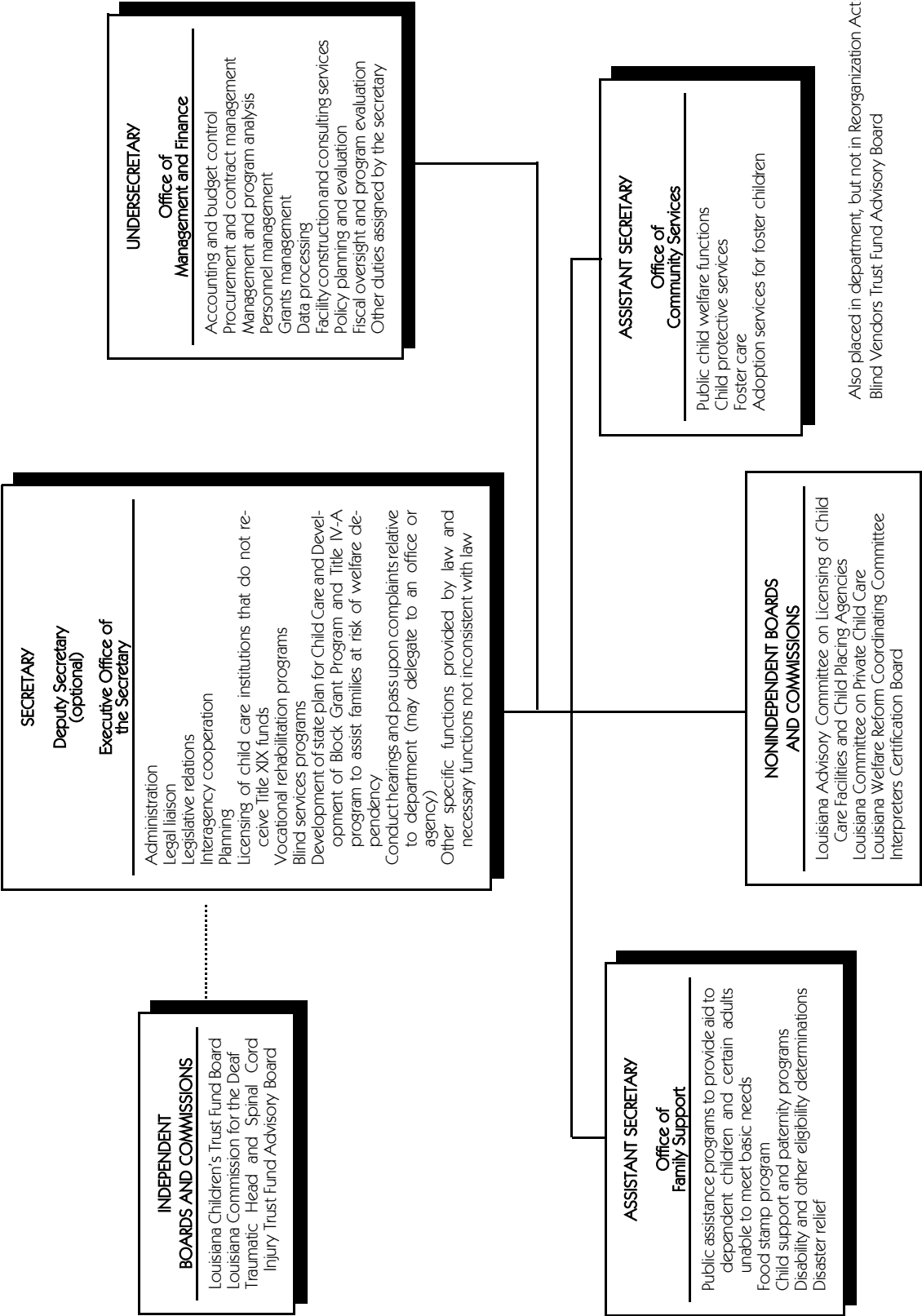
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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

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<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

DEPARTMENT OF SOCIAL SERVICES





## DEPARTMENT OF SOCIAL SERVICES

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$978,096,232

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 5,324

Total unclassified:	9
Total classified:	5,315
<b><i>Total Employees (Actual)<sup>3</sup>:</i></b>	5,260
Total unclassified:	32
Total classified:	5,228

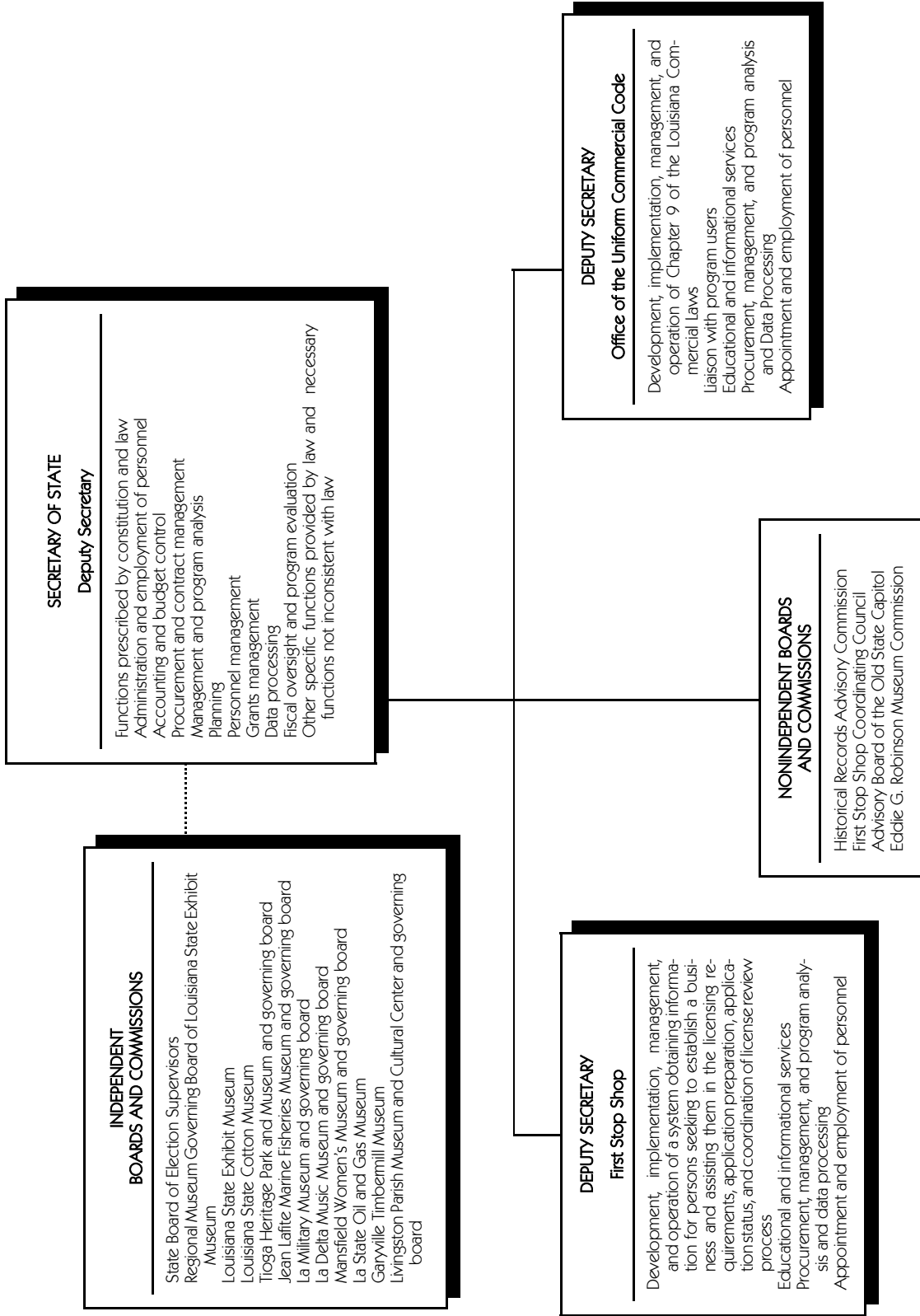
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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

<sup>2</sup> Total positions budgeted for the department (includes funded appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the budget. Source is *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004*, July 24, 2003.

<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

# DEPARTMENT OF STATE



## DEPARTMENT OF STATE

### ***Budget for 2003-2004 Fiscal Year<sup>1</sup>: \$74,387,878***

State Total \$42,041,477

Elections Total 32,346,401

### ***Budgeted and Authorized FTE Department Positions<sup>2</sup>: 275***

State Total 184

Total unclassified: 16

Total classified: 168

Elections Total 91

Total unclassified: 6

Total classified: 85

### ***Total Employees (Actual)<sup>3</sup>:***

State Total 225

Total unclassified: 54

Total classified: 171

Elections Total 540

Total unclassified: 390

Total classified: 150

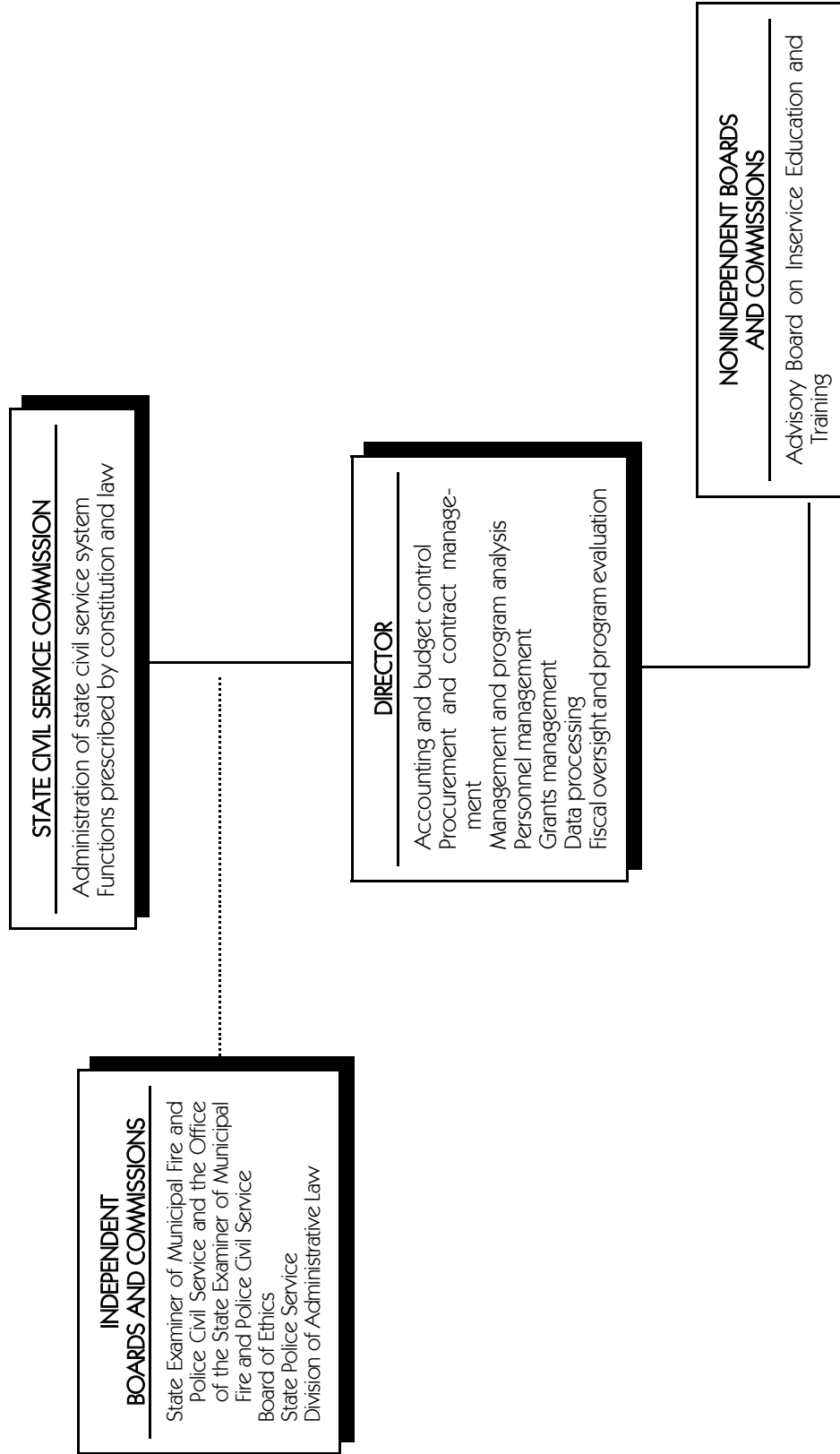
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<sup>1</sup> Total (total means of financing) Budgeted (includes Dept. of Elections to be merged into Dept. of State on 1/12/04) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

<sup>2</sup> Total positions (includes Dept. Of Elections to be merged into Dept. Of State on 1/12/04) budgeted for the department (includes funded appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the budget. Source is *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004*, July 24, 2003.

<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc. (Includes Dept. of Elections to be merged into Dept. of State on 1/12/04)

## DEPARTMENT OF STATE CIVIL SERVICE



## DEPARTMENT OF STATE CIVIL SERVICE

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$12,952,839

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 174

Total unclassified:	5
Total classified:	169
<b><i>Total Employees (Actual)<sup>3</sup>:</i></b>	<b>248</b>
Total unclassified:	87
Total classified:	161

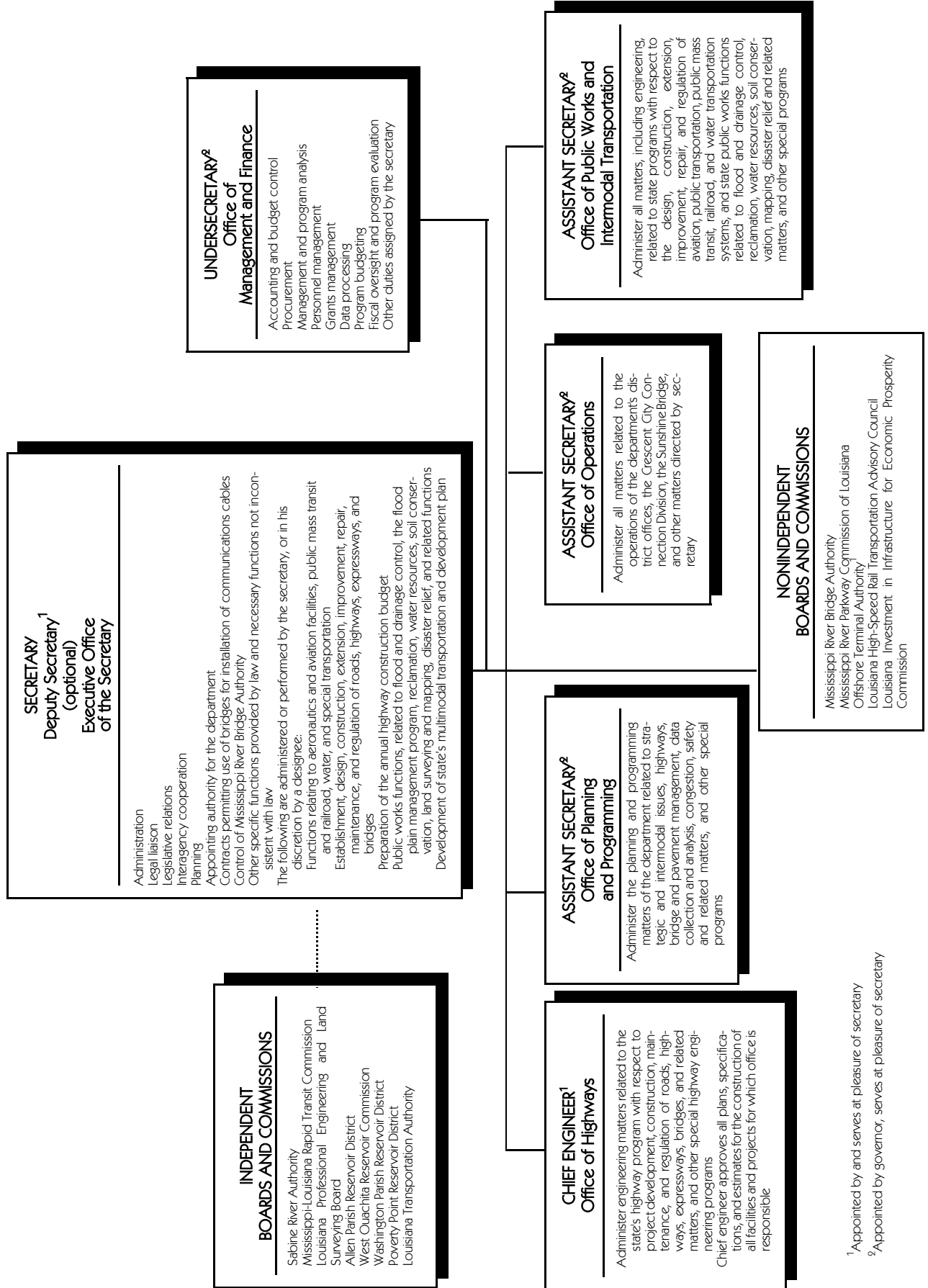
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<sup>1</sup>Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

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<sup>3</sup>As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

# DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT



<sup>1</sup>Appointed by and serves at pleasure of secretary

<sup>2</sup>Appointed by governor, serves at pleasure of secretary

## DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$396,373,476

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 5,271

Total unclassified: 13

Total classified: 5,258

***Total Employees (Actual)<sup>3</sup>:*** 5,301

Total unclassified: 77

Total classified: 5,224

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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

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<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

# DEPARTMENT OF THE TREASURY

**STATE TREASURER**

Deputy State Treasurer  
(optional)

**Executive Office of  
the State Treasurer**

- Administration
- Legal liaison
- Legislative relations
- Interagency cooperation
- Planning
- Other specific functions provided by law and necessary functions not inconsistent with law

**DEPUTY STATE TREASURER**

**Office of  
Management and Finance**

- Accounting and budget control
- Procurement and contract management
- Management and program analysis
- Personnel management
- Grants management
- Data processing
- Fiscal oversight and program evaluation
- Other duties assigned by the state treasurer

**INDEPENDENT  
BOARDS AND COMMISSIONS**

- Louisiana Deferred Compensation Commission
- Louisiana Housing Finance Agency
- State Bond Commission
- Interim Emergency Board
- Medical Disability Board
- The following retirement systems and the boards of each (except the LSU Board of Supervisors):
- Louisiana State Employees' Retirement System
- State Police Retirement Fund
- Louisiana School Employees' Retirement System
- Teachers' Retirement System of Louisiana
- Louisiana State University Retirement System
- LA School Lunch Employees Retirement System

**ASSISTANT STATE TREASURER**

**Office of the  
State Bond Commission**

- Functions relating to management, control, and analysis of state debt
- Functions relating to the issuance of state bonds
- Other functions of the State Bond Commission

**ASSISTANT STATE TREASURER**

**Office of State Depository  
Control and Investment**

- Accounting and fiscal control and depository control of funds deposited in the state treasury or received by the state treasurer
- State's cash flow management program
- Investment of state funds
- Investment assistance to retirement systems

Also placed in department, but not in Reorganization Act:

- Louisiana Infrastructure Bank
- Louisiana Infrastructure Bank Board of Directors
- Public Retirement System Actuarial Committee



## DEPARTMENT OF THE TREASURY

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$14,430,766

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 54

Total unclassified:	6
Total classified:	48
<b><i>Total Employees (Actual)<sup>3</sup>:</i></b>	538
Total unclassified:	108
Total classified:	430

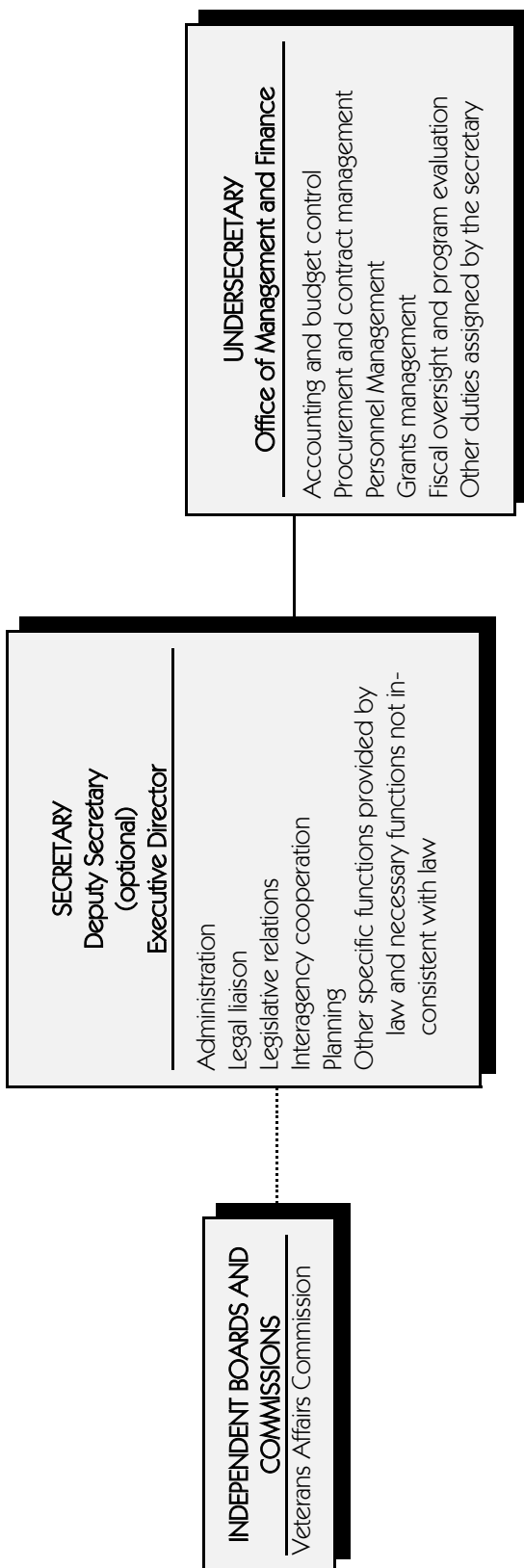
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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

<sup>2</sup> Total positions budgeted for the department (includes funded appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the budget. Source is *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004*, July 24, 2003.

<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

## DEPARTMENT OF VETERANS AFFAIRS



## DEPARTMENT OF VETERANS AFFAIRS

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$17,175,205

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 389

Total unclassified:	5
Total classified:	384

<b><i>Total Employees (Actual)<sup>3</sup>:</i></b>	418
Total unclassified	46
Total classified	373

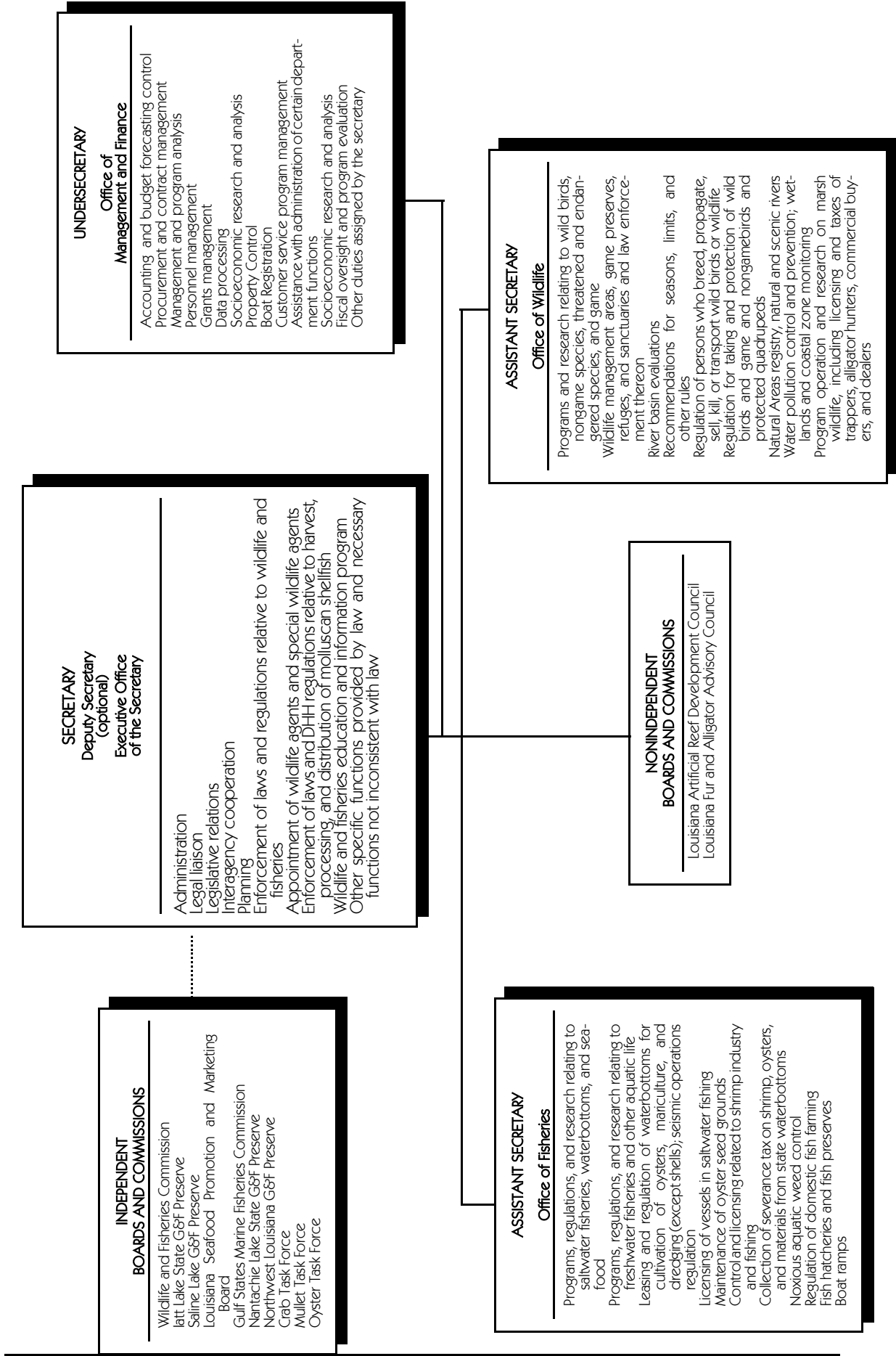
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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act. (Has not been adjusted for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices. May be cut \$8,277, BA-7 documents not yet processed at this time.)

<sup>2</sup> Total positions budgeted for the department (includes funded appropriations from the body of the General Appropriation Act) converted to full-time equivalents. Does not include such positions as members of boards and commissions, students, etc. Does not include employees of agencies not in the budget. Source is *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004*, July 24, 2003.

<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

# DEPARTMENT OF WILDLIFE AND FISHERIES



## DEPARTMENT OF WILDLIFE AND FISHERIES

***Budget for 2003-2004 Fiscal Year<sup>1</sup>:*** \$96,176,162

***Budgeted and Authorized FTE Department Positions<sup>2</sup>:*** 792

Total unclassified: 10

Total classified: 782

***Total Employees (Actual)<sup>3</sup>:*** 847

Total unclassified: 97

Total classified: 750

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<sup>1</sup> Total Budgeted (total means of financing) as reported in *Fiscal Year 2003-2004 – Significant Changes from Existing Operating Budget 2002-2003 to Total Appropriated 2003-2004* published on July 24, 2003, by the office of planning and budget of the division of administration; includes funded appropriations from the body of the General Appropriation Act adjusted by the Fiscal Division of House Legislative Services for State General Fund reductions mandated by the Preamble of the Act; does not include Other Requirements, Non-Appropriated Requirements, Retirement, or Ancillary Appropriations attributable to the department and its offices.

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<sup>3</sup> As reported by state civil service for 9/30/03. Total positions not converted to full-time equivalents. Unclassified includes such positions as board and commission members, students, etc.

**OFFICE OF THE GOVERNOR**

The Executive Reorganization Act transfers the following agencies and their functions to the office of the governor:

- (1) Division of Administration
- (2) Department of Contractual Review
- (3) Division of State Buildings
- (4) Facility Planning and Control Department
- (5) Occupational Forecasting Conference
- (6) Louisiana Workforce Commission
- (7) Patient's Compensation Fund Oversight Board
- (8) Crime Victims Reparations Board (under jurisdiction of La. Commission on Law Enforcement and Administration of Criminal Justice)
- (9) Council on Peace Officer Standards and Training (under jurisdiction of La. Commission on Law Enforcement and Administration of Criminal Justice)
- (10) Department of the State Register
- (11) Louisiana Architects Selection Board
- (12) Louisiana Engineers Selection Board
- (13) Louisiana Landscape Architects Selection Board
- (14) Military Department, State of Louisiana (including the Ansel M. Stroud, Jr. Military History and Weapons Museum)
- (15) Office of State Group Benefits (within the division of administration)
- (16) Board of Tax Appeals
- (17) Ozarks Regional Commission
- (18) Louisiana Stadium and Exposition District, Board of Commissioners
- (19) Mental Health Advocacy Service and its board of trustees
- (20) Louisiana Commission on Law Enforcement and Administration of Criminal Justice
- (21) Office of Elderly Affairs and the Louisiana Executive Board on Aging
- (22) Louisiana Commission on Human Rights
- (23) Wetlands Conservation and Restoration Authority
- (24) Drug Policy Board
- (25) Office of Rural Development
- (26) Office of Disability Affairs
- (27) Office of Women's Policy
- (28) Governor's Office of Indian Affairs
- (29) Office of Life-Long Learning
- (30) Office of the Louisiana Oil Spill Coordinator
- (31) Children's Cabinet and the Children's Cabinet Advisory Board (The Children's Cabinet Research Council and the Louisiana Juvenile Justice Planning and Coordination Board are not placed in the governor's office but are functions or advisory to the cabinet.)
- (32) Office of information technology and office of electronic services, including the Louisiana Geographic Information Systems Council and the Advisory Council for Technology Access by Individuals with Disabilities, within the division of administration
- (33) Louisiana Commission on HIV and AIDS
- (34) Governor's Advisory Commission on Coastal Restoration and Conservation
- (35) Board of Trustees of the State Employees Group Benefits Program (within division of administration)
- (36) Policy Coordinating Council

## **THE EXECUTIVE BRANCH**

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- (37) Office of Environmental Education
- (38) Coordinating Council on Telemedicine and Distance Education (law repealed)
- (39) Indigent Defense Assistance Board
- (40) Cabinet Advisory Group on Economic Development
- (41) Louisiana State Interagency Coordinating Council for Child Net: Louisiana's Early Intervention Program for Infants and Toddlers with Special Needs and their Families
- (42) Louisiana Technology Innovations Council
- (43) Louisiana Governor's Mansion Commission
- (44) Functions of the abolished Registrar of the State Land Office and the State Land Office and the administration and supervision of state lands is placed within the division of administration
- (45) Louisiana Economic Development Council
- (46) Louisiana Animal Welfare Commission
- (47) Pet Overpopulation Advisory Council
- (48) Juvenile Justice Reform Act Implementation Commission

The Executive Reorganization Act (R.S. 36:4.1) also transferred the agencies listed below from the Department of Economic Development to the office of the governor. R.S. 36:4.1 provides for particular transfers for these agencies and provides that the commissioner of administration shall be considered the “secretary” and the “undersecretary” for purposes of these transfers:

- |  |               |
|--|---------------|
| (1) The Office of Financial Institutions                     | R.S. 36:801.1 |
| (2) Louisiana State Racing Commission                        | R.S. 36:801.1 |
| (3) Louisiana State Board of Cosmetology                     | R.S. 36:801   |
| (4) Louisiana Cemetery Board                                 | R.S. 36:803   |
| (5) State Board of Certified Public Accountants of Louisiana | R.S. 36:803   |
| (6) State Board of Architectural Examiners                   | R.S. 36:803   |
| (7) Louisiana Real Estate Commission                         | R.S. 36:803   |
| (8) Louisiana State Board of Home Inspectors                 | R.S. 36:803   |
| (9) State Licensing Board for Contractors.                   | R.S. 36:803   |
| (10) Louisiana State Radio and Television Technicians Board  | R.S. 36:803   |
| (11) Board of Examiners of Certified Shorthand Reporters     | R.S. 36:803   |
| (12) Louisiana Auctioneers Licensing Board                   | R.S. 36:803   |
| (13) State Board of Examiners of Interior Designers          | R.S. 36:803   |
| (14) Louisiana Real Estate Appraisers Board                  | R.S. 36:803   |
| (15) State Boxing and Wrestling Commission                   | R.S. 36:803   |
| (16) Louisiana Motor Vehicle Commission                      | R.S. 36:803   |
| (17) Louisiana Used Motor Vehicle and Parts Commission       | R.S. 36:803   |
| (18) Polygraph Board   | R.S. 36:803   |
| (19) Louisiana Manufactured Housing Commission               | R.S. 36:803   |
| (20) Small Business Entrepreneurship Commission              | R.S. 36:803   |

## **OFFICE OF THE LIEUTENANT GOVERNOR**

The Executive Reorganization Act transfers the following agencies and their functions to the office of the lieutenant governor:

- (1) Louisiana Serve Commission
- (2) Louisiana Retirement Development Commission

**Title 36 also:**

Authorizes the governor to establish an office of civil rights.

Provides that the Public Buildings Board is abolished and its powers, duties, functions, and responsibilities are transferred to the governor.

Places the management of state-owned aircraft previously managed by DOTD and the functions of the abolished state land office in the division of administration.

Transfers the powers and functions of the abolished Bd. of Commissioners of the Camp Moore Confederate Cemetery to the division of administration, state land office, and authorizes cooperative endeavor agreement with Camp Moore Historical Assn. to operate and maintain Camp Moore Museum and Cemetery.

Transfers the functions of the abolished Department of Occupational Standards to the governor, through the commissioner of administration.

Authorizes the governor to allocate within his office the powers, duties, personnel, appropriations, functions, and responsibilities of the agencies transferred to his office and to provide for their administration and for the organization of his office.

**AGENCIES NOT INCLUDED IN TITLE 36**

The executive branch agencies below were created by the legislature and placed by statute in the departments indicated, but were not included in the provisions of the Executive Reorganization Act (Title 36). *(Does not include agencies created by legislative resolution or executive order of the governor.)*

***Office of the Governor***

Louisiana Sentencing Commission (R.S. 15:321 et seq.)

***Department of Agriculture and Forestry***

Louisiana Feed Commission (R.S. 3:1891-1907)

Boll Weevil Eradication Commission (R.S. 3:1604)

***Department of Health and Hospitals***

Louisiana Medical Disclosure Panel (R.S. 40:1299.40)

Southern Louisiana Drinking Water Study Commission (R.S. 40:2491)

***Department of Justice***

Law Enforcement Officers and Firemen's Survivor Benefit Review Board (R.S. 33:1947)

***Department of Natural Resources***

Oyster Lease Damage Evaluation Board (R.S. 56:700.10 et seq.)



## **THE EXECUTIVE BRANCH**

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### ***Department of Public Safety and Corrections***

Emergency Response Commission (R.S. 30:2364)

### ***Department of Social Services***

Louisiana Child Care Challenge Committee (R.S. 46:1443)

### ***Department of the Treasury***

Louisiana Infrastructure Bank (R.S. 48:81 et seq.)

Louisiana Infrastructure Bank Board of Directors (R.S. 48:81 et seq.)

## **AGENCIES NOT PLACED IN A DEPARTMENT**

The state agencies listed below have not been placed in an executive branch department by provisions of Title 36 or any other statute. *(Does not include agencies created by legislative resolution or executive order of the governor.)*

Board of Supervisors of Community and Technical Colleges (Const. Art. VIII, § 7.1)

Election Board of the Louisiana Hall of Fame of the Arts (R.S. 17:1815)

Flood Control Project Evaluation Committee (R.S. 38:90.4)

Advisory Committee on Regulation of Water Well Drillers (R.S. 38:3098.6)

Boards of directors to the eight regional service centers of the Dept. of Education (R.S. 17:3782)

Cash Management Review Board (R.S. 39:371 et seq.)

Regional and state advisory councils for community and family support services (R.S. 28:824)

Louisiana State Office of Rural Health (referred to, not actually created) (R.S. 40:2195.1)

Advisory Council for Early Identification of Hearing Impaired Infants (R.S. 46:2265)

Emergency Medical Services for Children Advisory Council (R.S. 40:1300.105)

Louisiana Environmental Education Commission (R.S. 30:2503)

Telephone Access Program Board (R.S. 46:2355)

Compensation Review Commission (R.S. 42:1481 et seq.)

Choose Life Advisory Council (R.S. 47:463.61)

South Central Regional Transportation Authority (R.S. 48:2041 et seq.)

Rev. Avery C. Alexander Memorial Commission (R.S. 49:149.61)

Commercial Building Energy Conservation Code Advisory Committee (R.S. 40:1730.28)

Agricultural Education Advisory Committee (R.S. 17:185.3)

Louisiana School Asbestos Abatement Commission (R.S. 30:2345)

# STATE AND LOCAL GOVERNMENT IN LOUISIANA: AN OVERVIEW 2004-2008 TERM

## CHAPTER 2 — STATE GOVERNMENT FUNCTIONS

**80 State Revenue Sources**

**89 Debt Structure of the State**

**94 The State General Fund**

**97 The Appropriations Process**

**111 The Capital Outlay Process**

*House Legislative Services*

### Part I. State Government Finance

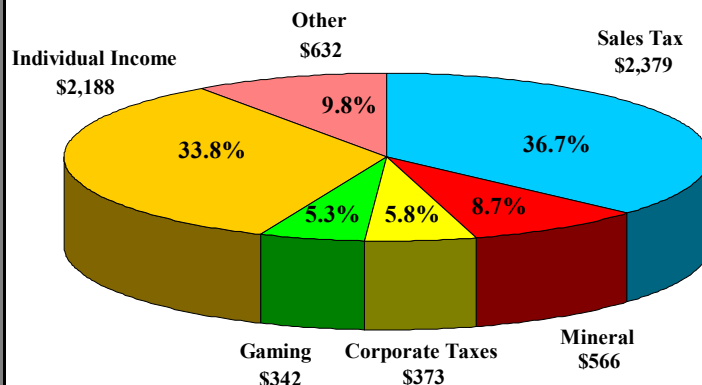
#### STATE REVENUE SOURCES

State revenue sources include taxes, licenses, fees, permits, rents and royalties, gaming revenues, interest on investments, proceeds from bond sales, and federal receipts. With the exception of certain self-generated funds, bond proceeds, and federal receipts, these funds are collected by five departments: Revenue, Natural Resources, Treasury, Public Safety and Corrections, and Insurance. Total state revenues estimated to be collected by these departments for the Fiscal Year 2003-2004 are \$7,889.7 million. Of this amount, \$1,406.0 million is dedicated to fund certain required allocations or programs and \$4.2 million is nonrecurring revenue, leaving \$6,479.5 million available for general purposes.

#### State General Fund Revenue Sources

**Total = \$6,480**

(In Millions of \$)



These amounts are from the revenue estimate for Fiscal Year 2003-2004 adopted by the Revenue Estimating Conference on May 16, 2003.

### **Revenues Collected by Department of Revenue**

Estimated total collections from all sources by the Department of Revenue for Fiscal Year 2003-2004 are \$5,901.3 million. These revenues are derived from a variety of taxes, fees, and permits. The major taxes are discussed below:

#### **! Sales and Use Tax**

The state general sales and use tax rate is 3.97% and is applicable to:

- (1) The sale of tangible personal property at retail in this state.
- (2) The use, consumption, distribution, or storage for use or consumption in this state of tangible personal property.
- (3) The lease or rental within this state of each item or article of tangible personal property.
- (4) The sale of certain services in the state.

There is an additional 0.03% tax levied by the Tourism Promotion District, a statewide taxing district, which imposes the tax upon the same base and generally subject to the same exemptions as the state sales and use tax.

Estimated collections from the sales and use tax for Fiscal Year 2003-2004, excluding sales tax from the sale of motor vehicles which is collected by the Department of Public Safety and Corrections, are \$2,109.0 million. There are numerous exemptions, exceptions, and exclusions from the sales and use tax. For Fiscal Year 2003-2004, most of the exemptions do not apply to the state general sales and use tax or the tax levied by the Tourism Promotion District. However, the tax rate on these products is 3.8%.

#### **! Income Taxes**

Income taxes are levied on both individuals and corporations on the following bases, and at the accompanying rates:

- (1) Individuals – based on gross income of the individual or family, subject to a combined personal exemption and standard deduction of \$4,500 for a single individual or married individual filing a separate return and \$9,000 for a married couple filing jointly and for a head of a household. The actual tax is affected by certain other exemptions, deductions, and credits. The amount of tax due is calculated from tables printed with the tax returns, with the individual's entry level to the tables tied to his federal income taxes, with the tables being based on rates as follows:

Single	Married/Joint Returns
2% of first \$12,500 of taxable income	2% of first \$25,000 of taxable income
4% on next \$12,500 of taxable income	4% on next \$25,000 of taxable income
6% on taxable income of over \$25,000	6% on taxable income of over \$50,000

Estimated individual income tax collections for Fiscal Year 2003-2004 are \$2,188.2 million.

- (2) Corporations – based on Louisiana taxable income subject to certain adjustments. Corporations also are allowed a deduction from gross income for federal income taxes paid and various other deductions and credits. The applicable rates are as follows:

4% of first \$25,000 of taxable income  
5% of next \$25,000 of taxable income  
6% of next \$50,000 of taxable income  
7% of next \$100,000 of taxable income  
8% of taxable income over \$200,000

Estimated collections from the corporation income tax for Fiscal Year 2003-2004 are \$212.4 million.

## ! **Severance Taxes**

Severance taxes are imposed on the severance or extraction of minerals and other natural resources from the soil or ground. The rates levied are dependent on the mineral or natural resources severed, and include: a) oil and condensate at 12.5% of value per barrel – full rate; b) natural gas, at an indexed rate with a minimum of 7¢ per MCF – full rate; c) sulphur at \$1.03 per long ton; d) salt at 6¢ per 2,000 pounds; and e) other severance taxes imposed at varying rates on timber, coal, lignite, ores, sand, shell, marble, stone and gravel, liquefied petroleum gases, and other natural gas liquids. Reduced rates are applicable to oil, casing head gas, and natural gas from wells not capable of producing at certain rates of flow.

Estimated collections from the general severance taxes for Fiscal Year 2003-2004 total \$416.6 million, of which \$34.4 million is allocated to the respective parishes where the natural resource is severed.

## ! **Gasoline and Special Fuels Taxes**

Gasoline and special fuels taxes are generally imposed at 20¢ per gallon on each gallon of gasoline and diesel fuel sold in or imported into this state. Estimated collections from these taxes for Fiscal Year 2003-2004 are \$434.2 million for gasoline and \$117.0 million for special fuels. The proceeds from these taxes are distributed to the Transportation Trust Fund, discussed in detail in Part V, Transportation and Development.

## ! **Tobacco, Alcoholic Beverage, and Beer Taxes**

- (1) Tobacco taxes are levied on cigars, cigarettes, and smoking tobacco at the following rates:

Cigars – Manufacturer's invoice price per thousand

- (a) 8% up to \$120 per thousand
- (b) 20% over \$120 per thousand

Cigarettes – 36¢ per package of 20

Smoking Tobacco – 33% of manufacturer's net invoice price

Estimated collections from the tobacco tax for Fiscal Year 2003-2004 are \$141.3 million, of which \$43.1 million is dedicated to certain health care programs.

- (2) Alcoholic beverage taxes are levied on beverages of high alcoholic content at the following rates:

Liquor - 66¢ per liter

Sparkling Wines - 42¢ per liter

Still Wines -

Alcoholic content 24% or above - 42¢ per liter

Alcoholic content 14%-24% - 6¢ per liter

Alcoholic content 14% and under - 3¢ per liter

Estimated collections from the alcoholic beverage taxes for Fiscal Year 2003-2004 are \$16.0 million.

- (3) The state beer tax is levied at the rate of \$10 per barrel (31 gallons).

Estimated collections from the beer tax for Fiscal Year 2003-2004 are \$38.2 million.

## **! Corporation Franchise Tax**

The corporation franchise tax is an annual tax of \$1.50 for each \$1,000 or major fraction thereof up to \$300,000 of the capital stock, surplus, undivided profits and borrowed capital of a corporation and \$3.00 for each \$1,000 or major fraction thereof on the capital in excess of \$300,000 of a corporation organized under Louisiana laws, qualified to do business in the state, continuing a corporate charter within the state, or using capital within the state. The minimum tax is \$10.00.

Estimated collections from the corporation franchise tax for Fiscal Year 2003-2004 are \$160.7 million.

## **! All Other Taxes Collected by the Department of Revenue**

Of the other revenues collected by the department, the inheritance and estate transfer tax is the major contributor, estimated to yield \$40.5 million for Fiscal Year 2003-2004. A phase-out of the inheritance tax will be complete in 2004 for most successions and federal action also phases-out the estate transfer tax. Taxes and fees estimated to generate revenues of \$10.0 million and below include: the public utilities tax based on gross receipts, hazardous waste tax, natural gas franchise tax levied on pipeline transportation,

supervision and inspection fees for common carriers and public utilities, gift tax, and automobile rental excise tax.

### **Revenues Collected by Department of Natural Resources**

Estimated total collections from all sources by the Department of Natural Resources for Fiscal Year 2003-2004 are \$314.4 million. These revenues are basically derived from royalties, bonuses, and rentals collected by the department from the leasing of state-owned land to private companies for the purpose of producing oil, gas, and other minerals and revenues dedicated to special mineral resources funds for specific purposes.

#### **! Royalties**

Estimated collections from royalties for Fiscal Year 2003-2004 are \$273.0 million. The royalty rate determines the percentage of value of the minerals severed that will go to the state. The rate is established in competitive bids submitted to the state, and thus may vary from contract to contract. Royalty payments are forthcoming, however, only after production has commenced.

#### **! Bonuses**

Estimated collections from bonuses for 2003-2004 are \$23.5 million. The bonus is a one-time payment made to the state when a bid is granted. The size of the bonus varies depending on the production prospects of the tract of land under bid. As risks increase and poorer production prospects are bid upon, the size of the bonus payments will decrease.

#### **! Rentals**

Estimated collections from rentals for Fiscal Year 2003-2004 are \$15.0 million. Rentals are payments made when there is no drilling activity by the end of the first year of the lease, and annual rental payments must be made as long as no drilling activity occurs. Rentals are no less than one-half the size of the bonus and continue for three years on inland tracts and five years on offshore tracts. At the end of these periods, the state can put the land up for bid again if no drilling activity has occurred.

### **Revenues Collected by Department of the Treasury**

Estimated total collections from all sources by the Department of the Treasury for Fiscal Year 2003-2004 are \$484.6 million. These revenues include interest earnings, unclaimed property, certain fees and various other agency receipts, revenues turned over to the state by virtue of the operation of the lottery and the land-based casino, and proceeds from the Tobacco Settlement.

### **Revenues Collected by Department of Insurance**

Estimated total collections from all sources by the Department of Insurance for Fiscal Year 2003-2004 are \$233.6 million. These revenues are derived from an annual license tax on each insurer operating in the state based on the gross amount of annual premiums on all risks, except annuity contracts, without deduction for dividends paid or credited to policyholders. In addition, the commissioner of insurance is empowered to collect various fees and licenses in advance from persons and companies engaged in the business.

**Revenues Collected by Department of Public Safety and Corrections**

Estimated total collections from all sources by the Department of Public Safety and Corrections for Fiscal Year 2003-2004 are \$955.8 million. These revenues are generally related to titling and licensing of motor vehicles, but also include sales and use taxes collected on motor vehicles when titles are granted or transferred. They also include revenues received by the state from riverboat gaming, video draw poker, and slot machine gaming at horse racing tracks.

**! Sales and Use Tax - Motor Vehicles**

The combined statewide sales and use tax rate is four percent. It is applicable to the sale of new and used motor vehicles initially registered in this state, as well as at the initial titling in this state of a motor vehicle previously registered in another state.

Estimated collections from the statewide sales and use tax on motor vehicles for Fiscal Year 2003-2004 are \$296.1 million.

**! Motor Vehicle Licenses**

Motor vehicle licenses are required for all motor vehicles that operate on the highways of the state and the rates vary with the type and use of the vehicle. Automobile licenses are \$10 per year for vehicles valued at ten thousand dollars or less and for vehicles valued at greater than ten thousand dollars the rate is the base of \$10 plus an additional one dollar for each one thousand dollars of value over ten thousand. The fee for commercial vehicles varies depending on use and weight.

Estimated collections from motor vehicle licenses for Fiscal Year 2003-2004 are \$86.0 million.

**! Certificates of Title**

All motor vehicles sold in or brought into the state must be titled in the owner's name and fees are charged by Public Safety for issuing certificates of title. The rates vary with the type of motor vehicle that is to be titled.

Estimated collections from certificates of title fees for Fiscal Year 2003-2004 are \$24.2 million.

**! Riverboat Gaming**

Revenues from riverboat gaming include application and investigation fees, permit fees, a license fee of 3.5% of net gaming proceeds, and a franchise fee of 18.0% of net gaming proceeds, except in Orleans Parish the rate is 15.0%.

Estimated total collections from riverboat gaming for Fiscal Year 2003-2004 are \$341.9 million.

**! Video Draw Poker**

Revenues from video draw poker include license fees and a franchise payment of 22.5% of net device revenue for pari-mutuel wagering facilities, 26.0% of net device revenue from restaurants, bars and hotels, and 32.5% of net device revenues for truck stops.

Estimated total collections from video draw poker for Fiscal Year 2003-2004 are \$175.4 million of which \$53.4 million is dedicated to specific purposes.

**! Race Track Slot Machines**

The state levies an 18.5% tax on taxable net slot machine proceeds.

Estimated total collections from this source in Fiscal Year 2003-2004 are \$19.4 million, of which \$15.2 million is dedicated to specific purposes.



**TAXES, LICENSES, AND FEES  
FOR FISCAL YEAR 2003-2004**  
(In Million \$)

Revenue Source	Official Forecast	Revenue Source	Official Forecast	Summary	Official Forecast
Alcoholic Beverage	16.0	Mineral Interest	2.9	Total Taxes, Lic., Fees	7,889.7
Beer	38.2	Total-Natural Res.	314.4	Less: Dedications <sup>1</sup>	-1,406.0
Corporate Franchise	160.7	Interest Earnings	40.0	Available for Exp.	6,483.7
Corporate Income	212.4	Interest Earnings (ITF)	3.2	Less Nonrecurring Rev. (75%)	-4.2
Gasoline	434.2	Var. Agy. Receipts	32.3	Available for General Purpose Expenditures	6,479.5
Gift	4.8	Agency SGR Over-Coll.	17.4		
Hazardous Waste	4.0	Bond Reimbursements	12.0		
Individual Income	2,188.2	Quality Ed. Support Fund	42.5		
Inheritance	40.5	Lottery Proceeds	99.5		
Natural Gas Franchise	6.0	Land-based Casino	61.5		
Public Utilities	2.4	Tobacco Settlement	63.7		
Auto Rental Excise	4.0	DHH Provider Fees	98.5		
Sales Tax - General	2,109.5	Unknown Owners	14.0		
Severance	416.6	Total-Treasury	474.6		
Special Fuels	117.0	Misc. DPS Permits and ABC Permits	12.8		
Supervision/Inspection Fee	3.7	Titles	24.2		
Tobacco	141.3	Vehicle Licenses	86.0		
Miscellaneous Receipts	1.8	Vehicle Sales Tax	296.1		
Total-Dept. of Revenue	5,901.3	Riverboat Gaming	341.9		
Excise License	197.7	Racetrack Slots	19.4		
Ins. Rating Fees (SGF)	35.9	Video Draw Poker	175.4		
Total-Insurance	233.6	Total-Public Safety	955.8		
Royalties	273.0				
Rentals	15.0	Total Taxes, Licenses, and Fees	7,889.7		
Bonuses	23.5				

Source: Official forecast of Revenue Estimating Conference as of May 16, 2003.

<sup>1</sup>See *Forecast of Dedicated Revenues*, next page.

**DEDICATED REVENUES  
FOR FISCAL YEAR 2003-2004  
(In Million \$)**

<b>Dedication</b>	<b>Official Forecast FY 03-04 5/16/03</b>
Gasoline-Port of N.O. & Lake Charles Harbor	0.0
Transportation Trust Fund	440.9
Motor Vehicles Lic. - TTF	34.1
Aviation Tax - TTF	6.3
TTF Interest	4.6
Motor Fuels - TIME Program	110.2
Motor Veh. License - Hwy Fund #2	9.9
Severance Tax - Parishes	34.4
Severance Tax - Forest Prod. Fund	3.2
Royalties - Parishes	27.3
Royalties - DNR Legal Support Fund	1.6
Wetlands Fund	18.1
Mineral Audit Settlement Fund	0.0
Quality Education Support Fund	42.5
Sales Tax Econ. Development	11.3
Tourist Promotion District	15.8
Excise License - 2% Fire Ins.	11.1
Excise License - Fire Marshal Fund	8.3
Excise License - LSU Fire Training	1.7
Insurance Fees	35.9
Video Draw Poker	53.4
Racetrack Slots	15.2
Lottery Proceeds Fund	99.0
SELF Fund	127.7
Riverboat "Gaming" Enforcement	55.4
Compulsive Gaming Fund	2.0
Tobacco Settlement	63.7
Tobacco Tax Health Care Fund	43.1
State Police Salary Fund	15.6
Excess Revenue Collection Fund	0.0
Risk Management Insurance Premium	0.0
DHH Provider Fees	98.5
Stabilization Fund	1.4
Hazardous Waste Funds	4.0
Supervision/Inspection Fee	3.7
Insp. Fees - Gasoline, Ag. Petr. Fund	0.8
Bond Reimbs. Paid by Others	5.2
<b>Total Dedications</b>	<b>\$ 1,406.0</b>

*Source:* Official forecast of Revenue Estimating Conference as of May 16, 2003.

### DEBT STRUCTURE OF THE STATE

The state of Louisiana, like most state and local governments, incurs debt or issues bonds to fund capital improvement projects. The types of debt instruments that may be incurred or issued include:

- (1) General Obligation Bonds – These bonds are secured by the full faith and credit of the state.
- (2) Revenue or Special Tax Bonds – These bonds may, but do not usually, carry a pledge of the full faith and credit of the state. The debt service requirements for these bonds are derived from a pledge of project revenues or from the pledge of a specific tax. An example of this type of debt is Transportation Trust Fund bonds which are secured by a pledge of the tax levied by the state on gasoline, motor fuels, and special fuels.
- (3) Lease Rental/Lease Purchase/Certificates of Participation – These types of debt are used to fund a wide array of purposes from equipment acquisition to construction of buildings. Such debt is usually issued by a public trust, like the Louisiana Public Facilities Authority, or by an authority or nonprofit corporation which act as lessors. The state is the lessee. The debt is secured by the lessee's rent or lease payments. Typically, ownership reverts to the state when all of the debt has been paid. An example of this type of debt is bonds issued by the Office Facilities Corporation for the construction of state office buildings.

### Constitutional Provisions – General

Article VII, Section 6 of the Constitution of Louisiana provides that unless otherwise authorized by the constitution, the state shall have no power, directly or indirectly, through any state board, agency, commission, or otherwise, to incur debt or issue bonds except by law enacted by two-thirds of the elected members of each house of the legislature. Such debt may be incurred or the bonds issued only if the funds are to be used to (i) repel invasion, (ii) suppress insurrection, (iii) provide relief from natural catastrophes, (iv) refund outstanding indebtedness at the same or a lower effective interest rate, or (v) make capital improvements, but only in accordance with a comprehensive capital budget adopted by the legislature. If the purpose is to make capital improvements, the nature, location and, if more than one project, the amount allocated to each and the order of priority shall be stated in the comprehensive capital budget. The full faith and credit of the state shall be pledged to the repayment of all bonds or other evidences of indebtedness issued by the state directly or through any state board, agency, or commission pursuant to the provisions mentioned above. The legislature may also, by law enacted by two-thirds of the elected members of each house, propose a statewide public referendum to authorize incurrence of debt by the state for any purpose.

All state general obligations and certain bonds of state agencies, boards, and commissions which are secured by the full faith and credit of the state are secured by the Bond Security and Redemption Fund (hereafter the BS&R Fund) (*Const. Art. VII, §9(B)*).

Section 9(A) of Article VII of the Constitution of Louisiana provides that:

*All money received by the state or by any state board, agency, or commission shall be deposited immediately upon receipt in the state treasury, except that received (i) as a result of grants or donations or other forms of assistance when the terms and conditions thereof or of agreements pertaining thereto require otherwise, (ii) by trade or professional associations, (iii) by the*

*Employment Security Administration Fund or its successor, (iv) by retirement systems funds, and (v) by state agencies operating under authority of the constitution preponderately from fees and charges for the shipment of goods in international maritime trade and commerce; and (vi) by a state board, agency, or commission, but pledged by it in connection with the issuance of revenue bonds as provided in Paragraph (C) of Section 6 of Article VII of the constitution, other than any surplus as may be defined in the law authorizing such revenue bonds.*

Section 9(B) of Article VII of the Constitution of Louisiana gives constitutional status to the BS&R Fund and further provides that, subject to contractual obligations existing on the effective date of the constitution, all state money deposited in the state treasury is to be credited to the BS&R Fund, except money received as the results of grants or donations or other forms of assistance when the terms, conditions, or agreements require otherwise. The constitution further requires in Section 9(B) of Article VII that in each fiscal year an amount be allocated from the BS&R Fund sufficient to pay all obligations that are secured by the full faith and credit of the state that become due and payable within the current fiscal year, including principal, interest, premiums, sinking or reserve funds, or other requirements. Thereafter, except as otherwise provided by law, money remaining in the BS&R Fund is to be credited to the state general fund.

### **State Bond Commission**

In 1968, the legislature created by statute the State Bond Commission (Bond Commission) to centralize and administer the incurring of debt by the state, including indebtedness incurred by its boards, agencies, and commissions. The Bond Commission is comprised of the following members by virtue of their office: the state treasurer, who serves as chairman, the governor, the lieutenant governor, the secretary of state, the attorney general, the commissioner of administration, the president of the Senate, the speaker of the House, the Senate Finance Committee chairman, the House Appropriations Committee chairman, the Senate Revenue and Fiscal Affairs Committee chairman, the House Ways and Means Committee chairman, and two members of the Legislature, one appointed by the president of the Senate and one appointed by the speaker of the House. The constitution grants constitutional status to the Bond Commission and provides that no bonds or other obligations shall be issued or sold by the state directly or through any state board, agency, or commission, or by any political subdivision of the state, unless prior written approval of the Bond Commission is obtained (*Const. Art. VII, §§6, 8*).

### **Debt Limits**

#### **Statutory Limits on General Obligation Bond Debt**

According to national information published by Moody's Investors Service (a bond rating agency), in 1991 Louisiana had the sixth highest debt per capita and third highest debt as a percentage of personal income among the fifty states. In 1993, the legislature took a number of actions to reduce this over-dependence on debt. Specifically, the legislature passed a constitutional amendment and statutory companion limiting the amount of net state tax supported debt which could be issued in any fiscal year. This constitutional amendment was subsequently approved by the electorate and took effect on November 7, 1993. (See below for an expanded explanation.) Also in 1993, the legislature began a self-imposed limit on the amount of general obligation bonds which could be issued for capital construction for any fiscal year.

### **Limitation on Issuance of Net State Tax Supported Debt**

Article VII, Section 6(F) of the constitution requires the legislature to limit the amount of net state tax supported debt (NSTSD) which may be issued in any fiscal year. The constitutional provision provides that once enacted, the definition of NSTSD cannot be changed, nor can the limitation be exceeded, except by specific legislative instrument which receives the favorable vote of two-thirds of each house of the legislature. The State Bond Commission is prohibited from approving the issuance of any NSTSD if the debt service required by such debt would cause the limit of the provision to be exceeded.

R.S. 39:1367, the statutory companion to Article VII, Section 6(F) of the state constitution, provides that the state cannot issue NSTSD on which the “amount to be expended for servicing” NSTSD exceeds certain allowable percentages of state revenue, as determined by the Revenue Estimating Conference. The allowable percentage for Fiscal Year 2003-2004 and thereafter is 6.0%.

The State Bond Commission is required under R.S. 39:1367 to establish annually the limitation of the issuance of net state tax supported debt (NSTSD) for each fiscal year. According to the statute, NSTSD means all of the following debt obligations issued by the state or any entity in the state for which the state is legally obligated to make debt service payments, either directly or indirectly: (a) general obligation bonds secured by the full faith and credit of the state; (b) debt secured by capital leases of immovable property payable by the state or annual appropriations of the state; (c) debt secured by statewide tax revenues or statewide special assessments; (d) bonds secured by self-supported revenues which in the first instance may not be sufficient to pay debt service and will then raw upon the full faith and credit of the state. NSTSD does not mean: (i) any obligations owned by the state pursuant to the state Employment Security Law, or (ii) cash flow borrowing payable from revenue attributable to one fiscal year.

The attorney general has issued Opinion No. 94-452, dated September 14, 1994, which interprets the original enabling legislation (Act 813 of 1993) what to include and exclude as NSTSD; however, the State Bond Commission has adopted a rule which is more restrictive. (This opinion of the attorney general is advisory only).

### **Self-imposed Limit on General Obligation Debt**

Since it was first imposed in 1993, the legislature has included within the Capital Outlay Act for each fiscal year a limit on the amount of general obligation bonds which can be authorized or issued to fund capital outlay projects for any fiscal year. Initially this limit was set at \$200,000,000 but in recent years has been adjusted for inflation. The limit for new issues in Fiscal Year 2003-2004 is \$267,100,000.

As a result of these legislative initiatives, Louisiana’s net state tax supported debt (NSTSD) per capita has been reduced from \$991 in 1991 to \$650 in 2003. According to rankings by Moody’s Investors Service, the state went from being ranked as the sixth highest to number 24. During this same period, NSTSD as a percent of personal income went from 3.3% to 2.6%. The state’s ranking went from third to 21st. The median for all states for NSTSD per capita for 2003 is \$838 and as a percent of personal income is 2.7%.

The bond rating for the state also improved. Moody’s Investors Service (Moody’s) upgraded the state’s bond rating from Baa1 in 1990 to A1 in 2003. Standard and Poor’s (S & P) upgraded the bond rating from A- (negative outlook) in 1995 to A+ in 2003 while Fitch IBCA (Fitch) upgraded the bond rating from A in 1997 to A+ in 2003. The following table provides a history of Louisiana’s bond rating since 1972.

## Louisiana Bond Ratings - Historical Perspective

	<u>Moody's</u>	<u>S&amp;P</u>	<u>Fitch</u>
1972	A1	AA	
1975	Aa (upgrade)	AA	
1984	Aa	AA- (downgrade)	
1985	A1 (downgrade)	AA-	
1986	A (downgrade)	A (downgrade)	
1987	Baa1 (downgrade)	A- (downgrade)	
1988	Baa1	BBB+ (downgrade)	
1990	Baa1	A (upgrade)	
Feb, 1995	Baa1	A (with a negative creditwatch)	
July, 1995	Baa1	A- (negative outlook) (downgrade)	
1997	A3 (upgrade)	A- (stable outlook)	A
1998	A2 (upgrade)	A- (stable outlook)	A
1999	A2	A- (stable outlook)	A
2000	A2	A (stable outlook) (upgrade)	A
2001	A2	AA	
2002	A2 (positive outlook)	AA	
2003	A1 (upgrade)	A+ (upgrade)	A+ (upgrade)

The most recent status report on NSTSD (February 20, 2003) indicated that the state is well within the limit on issuance of such debt. The current percentage of debt outstanding in Fiscal Year 2003-2004 is 5.10% versus the legal limit of 6.00%. Even assuming a debt issuance for projection purposes of \$400,000,000 per fiscal year, the anticipated percentage to be measured against the 6.00% legal limit goes from 5.96% for Fiscal Year 2003-2004 to 5.42% in Fiscal Year 2011-2012.

## Bond Ratings

Prior to a proposed bond issuance, the state of Louisiana, like all other governmental issuers, has its credit worthiness rated by one or more national rating agencies. These ratings are used by investors in making decisions as to the purchase or sale of the debt obligations of the issuer. The various rating agencies consider many factors in making their rating decisions. These factors include the issuer's debt outstanding, previous financial performance and management, the economy, payment capacity, nature of the anticipated debt issue, and protection of the debt by such things as the Bond Security and Redemption Fund and credit enhancement. The investment grade rating categories of the rating agencies that currently rate Louisiana are:

<u>Moody's Investors Service</u>	<u>Standard &amp; Poor's</u>	<u>Fitch</u>
AAA	AAA	AAA
Aa1	AA+	AA+
Aa2	AA	AA
Aa3	AA-	AA-
A1	A+	A+
A2	A	A
A3	A-	A-
Baa1	BBB+	BBB+
Baa2	BBB	BBB
Baa3	BBB-	BBB-

### Credit Enhancement

It has become increasingly common for government issuers of bonds to improve the rating on their bonds by providing some type of credit enhancement. The most common form of credit enhancement is municipal bond insurance purchased from an insurance company. The state has typically purchased municipal bond insurance for its bond issues. Other forms of credit enhancement include letters of credit and collateralized or securitized debt where the issuer pledges assets for payment of the debt.

### Treasury and Treasury Administration

The Department of the Treasury is established by the constitution as one of the twenty authorized departments within the executive branch of state government (*Const. Art. IV, §§1, 9*). The state treasurer, as head of the department, is responsible for the custody, investment, and disbursement of the public funds of the state and is required to report annually, at least one month before each regular session, to the governor and the legislature on the financial condition of the state (*Const. Art. IV, §9*). Other statutory duties and powers, including in particular the deposit and investment of state funds, are set forth in the statutes (*R.S. 49:301 et seq.*). The treasurer does not choose depository banks as is generally believed; instead, the Interim Emergency Board designates as state depositories such national or state banks or trust companies doing business in this state as it deems advisable after considering the recommendations of the treasurer (*R.S. 49:317*). The deposit and investment of state funds are considered at length later in this discussion.

### Bond Security and Redemption Fund

Central to any discussion of the state's financial structure is the Bond Security and Redemption Fund, initially created as a statutory fund by Act 112 of 1960 and later elevated to constitutional status as one of the major changes of the Louisiana Constitution of 1974. Article VII, Section 9 requires that all money received by the state or by any state board, agency, or commission shall be deposited immediately upon receipt in the state treasury, to the credit of the Bond Security and Redemption Fund, except that received:

- (1) As a result of grants or donations or other forms of assistance when the terms and conditions thereof or of agreements pertaining thereto require otherwise.
- (2) By trade or professional associations.
- (3) By the employment security administration fund or its successors.
- (4) By retirement systems.
- (5) By state agencies operating under authority of the constitution preponderantly from fees and charges for the shipment of goods in international maritime trade and commerce.
- (6) By a state board, agency, or commission, but pledged by it in connection with the issuance of revenue bonds as otherwise provided in the constitution, other than any surplus as may be defined in the law authorizing such revenue bonds.

R.S. 49:308 restates the above language and additionally purports to further exempt funds received by a "levee district or political subdivision unless the full faith and credit of the state

is pledged to the payment of the bonds of the levee district or political subdivision,” as well as purporting to exempt other funds through providing certain definitions for “political subdivision” and “state or state board, agency or commission.”

The Transportation Trust Fund, constitutionally established on January 1, 1990, added an additional exemption to the immediate deposit of certain revenues into the Bond Security and Redemption Fund. Article VII, Section 27(13) requires that all taxes levied on gasoline, motor fuels, and special fuels first be used to pay bonds issues that are secured by such revenues prior to being credited to the Bond Security and Redemption Fund.

All monies deposited to the Bond Security and Redemption Fund are utilized on a first priority basis to satisfy the principal and interest requirements of the state’s bonded indebtedness without the necessity of appropriation by the legislature. This constitutional safeguard extended to state bondholders has reportedly had the effect of enhancing the marketability and interest rates of such bonds.

### **THE STATE GENERAL FUND**

This is the principal operating fund of the state treasury. It is referred to in the constitution and is established to provide the accounting mechanism by which the treasurer controls the allocation of money to pay the ordinary expenses of state government, pensions, public schools, public charities, and for capital outlay projects. It is composed of all monies remaining in the state treasury after certain constitutional allocations, debt obligations through the Bond Security and Redemption Fund and other debt obligations are satisfied, and deposit or allocations to specific dedicated funds are made.

### **Dedicated Funds**

The legislature, in order to guarantee future funding of certain essential programs and coordinate long-term state priorities, has created a number of “special purpose funds” which interpose themselves between the Bond Security and Redemption Fund and the general fund. Revenues dedicated to a particular fund must be credited to that fund by the state treasurer, after having first been credited to the Bond Security and Redemption Fund. However, monies available for expenditure from any particular fund may not exceed those appropriated for that year. Many of these funds have been determined to be “borrowable resources”, that is, funds which may be used for cash flow purposes during the year to meet the obligations of the state general fund.

### **Self-Generated Funds**

As the term “self-generated funds” implies, the monies accruing to such funds are the result of:

- (1) Income received by state agencies as a result of direct charges for their services.
- (2) License, permits, and fees imposed under legislative authority for engaging in business, exercising a franchise, or practicing a profession or trade, and charges for inspections, examinations, registrations or certifications.
- (3) Revenues generated by the sale of merchandise and commodities. Merchandise and commodities are anything purchased, grown, raised, produced, manufactured, or developed by an agency.



Appropriations of an agency's self-generated monies are made through the state general fund, as self-generated monies deposited by each agency are deposited into the general fund. These appropriations are limited by the amount of such self-generated revenues actually collected. If the deposits are less than the amount appropriated, the appropriation is reduced accordingly.

### Agency Ancillary Funds

Agency ancillary funds are operating and working capital funds that are used to describe certain accounting system activities which are ancillary to the major purpose of the agency, such as the cafeteria operation at a large state institution. Such activities are self-sustaining and operate totally on self-generated revenues.

The Ancillary Appropriation Bill annually provides for the establishment and reestablishment of the funds, known specifically as Auxiliary Funds, Enterprise Funds, or Internal Service Funds, and dictates that the monies in each fund shall be used for working capital in the conduct of business enterprises rendering public and interagency service. The two largest funds are generally the State Employees' Group Benefits Program and the state's property and casualty self-insurance program which is known as the risk management program.

In the conduct of each such business, receipts are deposited in the state treasury and disbursements made by the state treasurer to the extent of the amounts deposited to the credit of each fund and as appropriated for expenditure. All appropriations from the state general fund contained in this bill are secured by working capital, and if the fund is not reestablished the following year then the appropriation must be returned to the state treasurer by the respective agency by October first.

Certain Auxiliary Fund appropriations may be contained in the General Appropriation Bill.

### Revenue Sharing

The annual state revenue sharing plan is a method by which certain state funds are allocated and distributed to local government. The constitution allocates the sum of \$90,000,000 annually to the Revenue Sharing Fund from the state general fund and authorizes the legislature to appropriate additional sums. The distribution priorities are set forth in the constitution (*Article VII, §26(C)*).

*Distribution Formula. The revenue sharing fund shall be distributed annually as **provided by law solely on the basis of population and number of homesteads** in each parish in proportion to population and the number of homesteads throughout the state. Unless otherwise provided by law, population statistics of the last federal decennial census shall be utilized for this purpose. After deductions in each parish for the retirement systems and commissions as authorized by law, the remaining funds, to the extent available, shall be distributed by first priority to the tax recipient bodies within the parish, as defined by law, to offset current loss because of homestead exemptions granted in this Article. Any balance remaining in a parish distribution shall be allocated to the municipalities and tax recipient bodies within each parish as provided by law.*

The revenue sharing bill introduced each regular legislative session consists of four major provisions:

- (1) A lump sum allocation to each parish from the total revenue sharing fund based on population and homesteads.

- (2) Two “paper” funds to compute the amounts due the sheriff and retirement systems in each parish.
- (3) Individual parish listings of eligible tax recipient bodies.
- (4) Various formulas for the distribution of excess funds, if any, within each parish.

The total allocation that each parish receives from the Revenue Sharing Fund is weighted 80% on population and 20% on number of homesteads; that allocation is distributed within each parish in accordance with (2) through (4) above. The current statewide formulas in (1) and (2) providing for the allocation to each parish and distributions to sheriffs and retirement systems were established in 1973 and 1974, respectively. Distributions within each parish for (3) and (4) have been the subject of frequent change by the local legislative delegations.

### **Investment of State Funds**

The constitution requires that all money in the custody of the state treasurer which is available for investment be invested as provided by the legislature (*Const. Art. VII, §13*).

Except as previously noted in the discussion of the Bond Security and Redemption Fund, all collections from licenses, fees, taxes, operating receipts, and from all other sources made by state agencies, whether or not the collections are dedicated to the use of the collection agency, are required to be paid into the state treasury. For the purpose of this requirement, the term “state or state board, agency or commission” is statutorily defined by R.S. 49:308(E) as “any state office, department, board, commission, institution, division, officer or other person or functional group authorized to exercise or that does exercise any functions of the government of the state.” The term does not include, among others, the legislative and judicial branches of state government; any local government or subdivision of the state; higher education boards and institutions; and any public trust created under R.S. 9:2341 et seq.

The administrator of each state department, board, commission, and agency is directed to invest monies under his control in either bank certificates of deposit, savings and share accounts of savings and loan associations, or credit unions, for up to one year, or in U.S. treasury bills for up to thirty days. The interest rate on certificates of deposit must be the same as that paid on U.S. treasury bills.

The treasurer is authorized and directed to invest monies on deposit in the state treasury in the following:

- (1) U.S. Treasury obligations.
- (2) U.S. government agency obligations, provided that no more than 20% of such instruments have maturities of 30 days or longer.
- (3) Direct security repurchase agreements and reverse direct security repurchase agreements of securities listed in (1) and (2).
- (4) Certificates of Deposit in Louisiana banks, savings and share accounts of savings and loan associations, and credit unions at a rate determined by rules and regulations promulgated

by the treasurer, but no less than the interest rate of Treasury obligations with a similar maturity.

- (5) Investment grade commercial paper and investment grade corporate notes and bonds.
- (6) Money market funds consisting solely of securities eligible for investment by the state treasurer.

Banks that wish to participate are required to provide 100% collateral to secure state deposits in excess of the amount of the deposit insured by the federal government. Banks selected as state fiscal agents or depositories must cash state checks at par as part of the consideration for receiving deposits of state funds.

The treasurer is required to submit a quarterly report on investments to the governor and the legislature, to include: the total state funds invested per month and earnings thereon, the rate of investment earnings expressed as a percentage of the investment, and the calculation method for payment of investment fees (*R.S. 49:327(C)*).

### THE APPROPRIATIONS PROCESS

The process by which the governor proposes and the legislature enacts the appropriations for funding the operations of state government is the most significant single means by which the policy and direction of state government is established. This process encompasses three distinct phases: operating budget development, enactment, and execution.

The executive branch develops the state budget, and the legislative branch, generally during the Regular Session, modifies that proposal and enacts a budget through a number of appropriation bills. The main types of appropriations bills are the General Appropriation Bill, which provides for the annual operating budgets of state agencies; the Capital Outlay Bill; the Ancillary Appropriation Bill, which provides for revolving fund appropriations; the Legislative Expense Bill; the Judicial Expense Bill; appropriations to pay certain judgments against the state; and, if necessary, supplemental appropriations for certain agency expenses in excess of the allotted budget.

The state fiscal year for which appropriations are made begins on July 1 and ends on June 30.

Operating budgets of state retirement systems are not subject to the state budgetary process, but are subject only to budgetary oversight by the legislature.

Appropriations are made within the following constitutional framework:

No funds shall be withdrawn from the treasury except by specific appropriation, unless provided otherwise by the constitution, and no appropriation shall be made under the heading of contingencies or for longer than one year (*Const. Art. III, §16(A)*).

No appropriation shall be made except for a public purpose (*Const. Art. VII, §10(I)*).

All bills appropriating funds or raising revenues must originate in the House, although the Senate may propose or concur in amendments (*Const. Art. III, §16(B)*).

The governor shall submit to the legislature a budget estimate for the next fiscal year setting forth all proposed state expenditures. This recommendation shall not exceed the official forecast of the Revenue Estimating Conference and the expenditure limit for the fiscal year (*Const. Art. VII, §10(E) and 11(A)*).

Appropriations by the legislature from the state general fund and dedicated funds for any fiscal year ... shall not exceed the official forecast in effect at the time the appropriations are made (*Const. Art. VII, §10(E)*).

The appropriation of any money designated in the official forecast as nonrecurring shall be made only for the purpose of early retirement of debt, payments on the unfunded accrued liability of public retirement systems, capital outlay, or deposit into the Budget Stabilization Fund. (*Const. Art. VII, 10(D)*).

The General Appropriation Bill shall be itemized and contain only appropriations for the ordinary operating expenses of state government. All other appropriations shall be for a specific purpose and amount (*Const. Art. III, §16(C) and (D)*).

The governor may veto any line item in an appropriation bill. Any item vetoed shall be void unless the veto is overridden as prescribed for passage of a bill over a veto (*Const. Art. IV, §5(G)(1)*).

The governor shall veto line items or use other means provided in the bill so that total appropriations for the year shall not exceed anticipated revenues for that year (*Const. Art. IV, §5(G)(2)*).

In an extraordinary session convened after final adjournment of the regular session in the last year of the term of office of a governor, a bill appropriating money, except for expenses of the legislature, requires a three-fourths favorable vote of the members of each house (*Const. Art. III §16(E)*).

### **Operating Budget Development**

The budget development phase includes submission of the annual departmental budget requests including operational plans, expected goals, objectives, and performance indicators, and submission of the governor's annual executive budget recommendation. The following section covers the major components of operating budget development.

### **Revenue Estimating Conference (R.S. 39:22-27)**

A "Revenue Estimating Conference" was created by Act 814 of the 1987 Regular Session to establish an official revenue estimate for use by the governor and the legislature in preparing and adopting the budget for each fiscal year. The conference was given constitutional status by Act 1096 of the 1990 Regular Session which was approved by the voters on October 6, 1990 (*Const. Art. VII, §10(A) and (B)*). At no time shall appropriations or expenditures for any fiscal year exceed the official estimate of anticipated state revenues for that fiscal year.

The membership of the conference is composed of the governor, the president of the Senate, the speaker of the House of Representatives, and a faculty member with revenue forecasting expertise of a university or college in Louisiana who serve as principals of the conference. The

faculty member is selected by the other principals of the conference from a list of nominees submitted by the Louisiana Higher Education Executive Advisory Committee. The official estimate of anticipated state revenues must be determined by the principals of the conference based upon the assumption that current law and administrative procedures will remain in effect for the forecast period. The conference must prepare and publish estimates of money to be received by the state general fund and dedicated funds for the current and next fiscal years which are available for appropriation. In each estimate, the conference is to designate the money that is nonrecurring. Any final action establishing the official estimate must be made by a unanimous decision of the conference principals. The most recently adopted estimate of money available for appropriation is the official forecast.

Changes to the membership beyond the four members and any change in the unanimous vote requirement of the conference must be made by law enacted by two-thirds of the members of each house of the legislature.

Provision is also made for membership on the conference by participants, who are invited to participate by a principal and who may develop alternate forecasts, provide data, perform analyses, and provide other information requested by the conference in developing the official estimate. All meetings and sessions of the conference shall be subject to the *Open Meetings Law* (R.S. 42:4.1 *et seq.*).

The conference is to meet at least four times a year as follows:

- (1) By October 15 of each year, the conference shall publish an official estimate to be used by the executive budget office in formulating the executive budget recommendations.
- (2) By January 1, the conference shall revise the official estimate to be used in preparation of the Executive Budget.
- (3) By the third Monday in March, the conference shall adopt a revised official estimate which shall be used by the legislature in its adoption of a state budget.
- (4) By August 15 and subsequent to final adjournment of each regular session, the conference shall revise the official forecast for the fiscal year for which appropriations were made in the past regular session incorporating all revenue impacts resulting from legislation enacted during the regular session. This estimate shall be used in preparation of the state budget.

At any time that at least two principals issue written notification that conditions warrant a possible revision of the official forecast for either the ensuing fiscal year or the current fiscal year, a meeting of the conference shall be held for consideration of a revision.

The official forecast for the current fiscal year shall be reviewed and revised, if necessary, each time the conference meets.

### **Consensus Estimating Conference (R.S. 39:21.1-21.4)**

Expanding on the concept initiated with the Revenue Estimating Conference, the legislature by Act 966 of the 1990 Regular Session created the Consensus Estimating Conference to develop consensus data for the use by the executive and legislative branches in budget development and enactment. Six conferences were created in the subject areas of economics, demographics,

education, criminal justice, health and social services, and transportation. The official information of the economic and demographic conferences is to be used by the other conferences in developing their forecasts.

The subject area conferences are composed of professional staff of the legislature, the governor's office, the State Planning Office, and the affected departments. In the case of the economic and demographic conferences, membership includes a faculty member with forecasting expertise from a Louisiana college or university.

Each state agency is to use the official information developed by the conferences in preparing its annual operating and capital outlay budget requests and in carrying out its duties under the state planning and budget system. The official information developed by each conference is to include a five-year projection, unless the principals unanimously agree otherwise. These five-year projections are intended to assist in long-range planning relative to fiscal issues.

### **Government Performance and Accountability (R.S. 39:87.1-87.4)**

The "Louisiana Government Performance and Accountability Act" was created by the Legislature by Act 1465 of 1997 with the intent that performance-based budgeting practices be established throughout state government by relating funding of programs to expected performance and, thereby, ensuring efficiency and economy in the expenditure of state funds.

The Act provided for the development of performance standards and measures for each executive branch agency program funded by the state and provided for a quarterly reporting of the progress such agencies make in meeting the performance goals.

Executive branch agencies may also be rewarded or penalized, depending on the level of their performance. The Joint Legislative Committee on the Budget is given responsibility for recommending rewards and penalties. Rewards may include greater flexibility in transfers of allotments between programs, special delegations of authority relative to service procurement, or retaining unexpended or unencumbered balances of appropriations or monetary rewards from the incentive fund. Penalties may include such actions as reduced allotment transfer authority, increased reporting requirements, recommendations for restructuring or elimination of the poorly performing agency, or increased audit oversight.

### **Expenditure Limit (R.S. 39:94)**

As required by the constitution (*Const. Art. VII, §10*), the legislature through Act 439 of the 1991 Regular Session has provided for the determination of an expenditure limit for each fiscal year. Appropriations by the legislature from the state general fund and dedicated funds must not exceed the expenditure limit. The limit may be changed in any fiscal year by a favorable vote of two-thirds of the elected members of each house of the legislature.

The expenditure limit for the 1991-1992 Fiscal Year was established as the actual appropriations from the state general fund and dedicated funds for that year. For subsequent years, the limit must not exceed the limit for the current fiscal year, plus an amount equal to that limit times a positive growth factor. The growth factor is the average annual percentage rate of change of personal income for Louisiana as defined and reported by the U.S. Department of Commerce for the three calendar years prior to the fiscal year for which the limit is calculated. This limit was adjusted for Fiscal Year 1995-1996 and thereafter to reflect a constitutional change in the definition of state general fund and dedicated funds.

### **Executive Budget (R.S. 39:28-38)**

The governor is required by Article VII, Section 11(B) of the Louisiana Constitution to:

*[C]ause to be submitted a general appropriation bill for proposed ordinary operating expenditures which shall be in conformity with the recommendations for appropriations contained in the budget estimate. The governor may cause to be submitted a bill or bills to raise additional revenues with proposals for the use of these revenues.*

The governor is to prepare an executive budget presenting a complete financial and programmatic plan for the ensuing fiscal year based upon the official estimate of the Revenue Estimating Conference. The executive budget is to clearly present and highlight the programs operated by state government and financial requirements associated with each program. It shall also be a performance-based budget incorporating goals, objectives, and performance measurements for each program. The governor also prepares a document known as the “supporting document,” which conforms with the executive budget and which provides in-depth detail for the recommendations and elements presented in the executive document.

Each executive branch department must engage in a process of strategic planning. Such plans shall incorporate components of the state economic development master plan to the extent practicable. For higher education institutions, the master plan for higher education may serve as the strategic plan. Each five-year strategic plan shall include, at a minimum, a mission statement, goals and objectives, and specific performance measures to be achieved for each program within that department. Such plans are to be updated every three years. The operational plan submitted by each agency as part of its request must be consistent with the agency’s strategic plan.

By September 20th of each year, the executive budget office must provide each executive branch budget unit (agency), except higher education agencies, with forms and instructions for submission of the budget request for the ensuing fiscal year. Budget request forms for higher education agencies shall be prescribed by the Board of Regents and approved by the division of administration.

Each year on a date specified by the commissioner of administration, but no later than November 15th, each budget unit and higher education agency submits its budget request for the upcoming fiscal year to the governor, the Joint Legislative Committee on the Budget, and the Legislative Fiscal Office. Agencies with workforce-related budgets also submit their budget requests to the Louisiana Workforce Commission for review, modification, and incorporation into the executive budget. If any budget unit fails to submit a request, the commissioner of administration is authorized to prepare a budget statement for the budget unit including a funding request which shall not exceed the appropriation to the budget unit in the previous fiscal year.

The executive budget office analyzes the budget requests and other information in preparing the executive budget and the supporting document. The executive budget and the accompanying supporting document are based upon and incorporate components of each department’s strategic plan, operating plan, and annual budget request.

A copy of the executive budget and its supporting document is transmitted to the Joint Legislative Committee on the Budget no later than forty-five days prior to each regular session

and to each member of the legislature by the first day of each regular session. In the first year of each term, the governor shall submit his executive budget and the supporting document to the Joint Legislative Committee on the Budget no later than thirty days prior to the regular session. Any proposals by the governor to enhance revenues beyond the official estimate shall be itemized and projected separately from the executive budget.

The executive budget and the supporting document as provided by R.S. 39:36 must contain, at a minimum, the following:

Executive Budget

- (1) A budget message signed by the governor giving a summary description of his proposed financial plan and major programmatic policies for the ensuing fiscal year.
- (2) Summary statements of the financial condition of the state for the last fiscal year concluded, an estimate of the financial condition for the current fiscal year, and a projection of the financial condition for the ensuing fiscal year, all based on the official forecasts for the respective periods.
- (3) Comparative statements for each department, budget unit, and program by the means of financing of the existing operating budget for the current fiscal year and recommended expenditures for the ensuing fiscal year. Such comparative statements shall be itemized for each program or budget unit to include information on classified and unclassified personnel and discretionary and non-discretionary spending.
- (4) For each budget unit, detailed statements identifying substantial aspects of agency policy and plans for programs to include: an outline of the agency's programmatic structure with itemization of all programs and the key objectives; clearly defined indicators of such objectives; and a description of the major programmatic and financial changes by program or budget unit for the ensuing fiscal year.

Supporting Document

- (1) Detailed comparative statements for each program, budget unit, and department, itemized by source of funds, expenditure category, and activity to report: actual expenditures for the last fiscal year concluded; the initial operating budget and existing operating budget for the current fiscal year; and the continuation budget and recommended expenditures for the ensuing fiscal year.
- (2) Reports of the actual and estimated amounts of the total authorized bonded debt of the state, the outstanding indebtedness, and the annual cost of debt service, itemized by principal and interest.
- (3) Reports of the actual and estimated payments on the unfunded accrued liability of the state, itemized by budget unit and the means of financing supporting such payments. As of June 30th each year, a consolidated report of the estimated payments required to provide for the amortization of the unfunded accrued liability of each state and statewide retirement system.



- (4) Additional, detailed information relative to personnel tables for each program or budget unit; performance information related to each agency's programmatic structure, including indicators, for the initial and existing operating budget, the continuation budget, and the recommended budget; and reports on monies proposed to be spent in the ensuing fiscal year for professional services, other charges, and acquisitions and major repairs.

### Legislative Procedure

As noted above, the governor, through the division of administration, prepares a general appropriation bill to implement the executive budget which is introduced in the House of Representatives. Once introduced, the legislative procedure for handling the general appropriation bill is similar to that for any other bill. All constitutional requirements and other requirements regarding the number of readings, etc., apply. After introduction in the House, the bill is referred to the Appropriations Committee. The committee studies the bill in detail, reviewing funding and personnel levels for each budget unit and receives and adopts amendments to the bill. The procedure for reporting the bill and engrossing and passing to third reading is the same as for other bills.

During House floor debate, a special procedural device called the "Committee of the Whole" may be used, by which the entire membership of the House resolves into a special committee for the purpose of debating the appropriation bill (*House Rule 6.18 et seq.*). When this occurs the speaker of the House appoints a member to serve as chairman. The bill is debated *seriatim*, which means that it is read and debated item by item in bill schedule order with the title being considered last. The Committee of the Whole procedure permits fuller discussion of the bill, including participation by the commissioner of administration or other persons who are not elected members of the House. Following the consideration by the Committee of the Whole, the committee reports to the House, which acts on the committee report.

After the House votes, the bill is reengrossed and sent to the Senate where it is referred to the Finance Committee, and the same process is repeated, except that the Senate does not use the Committee of the Whole procedure. After Senate consideration, the bill is returned to the House for concurrence in any amendments. When finally passed by both houses, the bill goes to the governor, who may veto any line item of the bill. The veto and veto override procedure is the same as for any other bill, except items may be considered separately.

### Other Appropriation Bills

The general appropriation bill is not the only appropriation bill introduced in a legislative session although it includes the vast majority of appropriations for the regular operating expenditures of state government. The constitution requires that all bills for appropriating money, other than the general appropriation bill, be for a specific purpose and amount.

The expenses of the legislature and its service agencies, including House Legislative Services, Senate Research Services, the Legislative Auditor's Office, the Legislative Fiscal Office, the Law Institute, and other support services are appropriated by means of the **legislative expense bill**, rather than the general appropriation bill. The Legislative Budgetary Control Council is charged by law with the responsibility of reviewing and controlling the budget and expenses of the legislature and its agencies (R.S. 24:38). The council is composed of ten members: the president of the Senate; the president pro tempore of the Senate; the speaker of the House; the speaker pro tempore of the House; the chairman and one member of the Senate and Governmental

Affairs Committee; the chairman and one member of the House and Governmental Affairs Committee; the clerk of the House; and the secretary of the Senate.

Appropriations for the expenses of the judiciary, including the supreme court, courts of appeal, and district courts, are contained in a separate ***judicial expense bill***. The budget preparation and expenditure control function is vested in the Judicial Budgetary Control Board, which functions similarly to the Legislative Budgetary Control Council (R.S. 24:38.1).

The ***ancillary appropriation bill*** provides for the appropriation of funds as working capital for the financing of business enterprises conducted by state agencies, such as dining halls, dormitories, insurance operations, and refreshment booths (R.S. 39:58). Appropriations are made out of special revolving working capital funds into which revenues from the operation of these enterprises are deposited and from which allotments are made.

Other types of appropriation bills include bills providing for the payment of judgments made against the state, payment of tax refund claims, and other special noncontinuing expenses of the state. Unanticipated expenses in excess of allotted monies from the current fiscal year are often provided for in a ***supplemental appropriation bill***.

### **Avoidance of budget deficits in budget development**

If the official forecast of recurring money for the next fiscal year is at least one percent less than such forecast for the current fiscal year, the governor and the legislature may employ the following methods and procedures in the development of the state budget for the next fiscal year pursuant to authority granted in Article VII, Section 10(F) of the constitution, for the purpose of avoiding a budget deficit in the next fiscal year.

- (1) An amount not to exceed five percent of the total appropriation in the current fiscal year from any fund shall be available for appropriation in the next fiscal year for a purpose other than as specifically authorized for that fund.
- (2) An amount not to exceed five percent of the current fiscal year's total appropriation for any expenditure which is either protected or mandated by law or the constitution shall be available for appropriation in the next fiscal year for a purpose other than as specifically required by law or constitution. However, no more than one percent of the current fiscal year's total appropriation for expenditures required for the minimum foundation program shall be available for other purposes.

Monies made available under these procedures may be transferred to a fund for which revenues have been forecast to be less than the revenues in the current fiscal year. In no event shall the cumulative percentage reduction made under these provisions with respect to any particular fund, appropriation, or allocation exceed five percent in any two consecutive fiscal years.

### **Actions Following Enactment of Appropriations**

Following gubernatorial action on the enrolled general appropriation bill, the commissioner of administration notifies each budget unit as to the nature and amount of its appropriations contained in the various appropriation acts no later than two weeks after the effective date of such act. Additionally, the commissioner may review and approve the initial allocation of expenditures for each appropriation for a fiscal year.

Throughout the course of the year, all questions which may arise as to the meaning of items specified in any appropriation act shall be decided by the governor, but the decision shall be based on the estimates and other information embodied in the executive budget and the supporting document.

### **State Budget**

By October first of each year, the governor is to have prepared a complete state budget for the fiscal year. The document shall include all the details of the financial plan, as presented in the executive budget, revised to conform with the appropriation and revenue Acts and other Acts and legislative provisions governing the budget. Not later than sixty days after adjournment of any special session, an update of the state budget must be prepared incorporating any revisions necessary as a result of actions taken during the special session.

### **Operating Budget Execution**

The budget, as reflected in the state budget document, is administered during the fiscal year by the Division of Administration. Appropriated amounts are made available from the state treasury to the budget units, with some exceptions, in monthly allotments, the allotments being based on work programs and requests of the budget units, which are subject to approval by the commissioner of administration. The total value of warrants submitted each month must represent only the cash requirements of the agency based on the liquidation of obligations and not the incurring of additional obligations (*R.S. 39:71*).

The expenditure of money by any budget unit in excess of the amount appropriated, without prior approval by the Interim Emergency Board and two-thirds of the legislature by mail ballot, is cause for removal of the state officer in charge (*R.S. 39:77*). (These provisions do not apply to the Military Department or the Department of Public Safety and Corrections when a state of emergency has been declared by the governor, and those department heads certify expenditures related directly to the emergency.)

### **Transfer of Funds**

Expenditures of budget units must strictly conform to the programs specified in the appropriation Acts, unless subsequently revised in accordance with law. The transfer of funds between programs within a budget unit is effected through the use of a BA-7, which is an administrative form detailing proposed changes from the current approved budget in means of finance and expenditure categories. Provisions governing these transfers include:

- (1) The commissioner may unilaterally approve the transfer of funds between programs within a budget unit which in the aggregate do not exceed one percent of the total appropriation of the budget unit.
- (2) With approval of the Joint Legislative Committee on the Budget, the commissioner may approve the transfer of funds between programs within a budget unit which in the aggregate do not exceed 25% of the total appropriation to the budget unit.
- (3) Transfers authorized under (1) and (2) above may not exceed 25% in the aggregate of the total appropriation of that budget unit for the fiscal year. Such transfers shall include adjustment of any performance standards which may be impacted.

**Remission of Balances**

All cash balances occurring from appropriations acts or the Interim Emergency Board for which no bona fide liability exists at the end of the fiscal year shall be remitted to the treasurer fifteen days after the year's close (R.S. 39:82). Provisions exist for some limited rollover of funds from one fiscal year to the next, including federal funds and state matching funds for federal grants. Funds for capital outlay projects or the Interim Emergency Board are not required to be returned to the treasury until completion of the project. A limited exception allows higher education institutions with a preventative maintenance program approved by the Board of Regents to retain certain funds (R.S. 17:3386). Finally, vocational-technical institutions which receive funds derived from riverboat boarding fees may retain such unexpended monies at the end of the fiscal year (R.S. 27:93).

**Avoidance of Deficits**

*Avoidance of cash flow deficits* – If the state treasurer and the commissioner of administration determine that the projected cash balance of monies available to pay appropriations is insufficient to pay anticipated warrants in any month, they must notify the governor and the Joint Legislative Committee on the Budget. To address potential cashflow deficits, the governor may direct the commissioner to reduce or disapprove warrants, and the treasurer shall not honor warrants in excess of the amount approved by the commissioner.

*Avoidance of budget deficits* – The division of administration submits a budget status report monthly to the Joint Legislative Committee on the Budget. This report indicates the balance of the budget for the state general fund and dedicated funds by comparing the official forecast for these funds to the total authorized appropriations from each fund. The report also notes any issues which materially affect the budgetary soundness of the state. The committee may make changes to the report as it deems appropriate. The most recently approved budget status report is the official budget status of the state.

If the budget status report indicates that the total appropriation from any fund will exceed the official forecast for that fund, the Joint Legislative Committee on the Budget shall notify the governor that a projected deficit exists for that fund. Upon receiving notification that a projected deficit exists, the governor shall have interim budget balancing powers to adjust the budget in accordance with the following provisions:

- (1) The governor may direct the commissioner of administration to reduce appropriations for any program that is appropriated from the fund that is in a deficit posture. Except as provided in (2) below, total adjustments for a budget unit shall not exceed three percent in the aggregate of the total appropriation for that budget unit for a fiscal year. Appropriations for the minimum foundation program and retirement systems may be reduced with approval of two-thirds of the members of each house, or by the procedure authorized in (2) below.
- (2) In the event the governor has reduced state general fund appropriations by an aggregate amount equal to at least seven-tenths of one percent of the total of such allocations and appropriations for that fiscal year and a deficit still exists, the governor may make further budget adjustments in order to eliminate the deficit. In accordance with Article VII, Section 10(F) of the constitution, the governor may direct the commissioner of administration to reduce any executive branch appropriation from the state general fund

and dedicated funds, including any which are constitutionally protected or mandated, by an amount not to exceed five percent in the aggregate of the total amount appropriated from that fund for that fiscal year. However, reductions to appropriations required for the minimum foundation program shall be limited to one percent and are not be applicable to instructional activities. Such budget adjustments require the prior approval of the Joint Legislative Committee on the Budget.

- (3) The governor may issue executive orders in the form of freeze orders prohibiting the expenditure of monies for specific items.
- (4) The governor may propose the use of an alternative source of revenue of a designated amount to address the deficit situation which shall be incorporated into the budget status report only after having obtained written approval of two-thirds of the members of each house of the legislature in accordance with R.S. 39:87.

If within thirty days of the determination that a projected deficit exists in a fund the necessary adjustments in the appropriations are not made to eliminate the projected deficit, the governor shall call a special session of the legislature for this purpose unless the legislature is in regular session.

### **Elimination of Year-end Deficits**

If a deficit exists in any fund at the end of the fiscal year, that deficit shall be eliminated not later than the end of the next fiscal year.

### **Annual Financial Statement**

Within six months of the close of the fiscal year, the commissioner of administration is to prepare a comprehensive annual financial statement (CAFR) presenting the financial position and results of operations of the state. At the same time, the commissioner shall cause to be prepared a brief, objective, and easily understood narrative report explaining the financial condition and the operations of the state which report shall be prepared for wide distribution to public through printed and electronic means.

### **Joint Legislative Committee on the Budget**

The Joint Legislative Committee on the Budget (*R.S. 24:651 et seq.*) serves as the budgetary and fiscal representative of the legislature to assist in the discharge of the legislature's fiscal and budgetary responsibilities. It provides the legislature with information relative to those responsibilities from a source created by and responsible solely to the members of the legislature. The committee is composed of the members of the House Committee on Appropriations, the Senate Finance Committee, and the chairmen of the House Ways and Means Committee and Senate Revenue and Fiscal Affairs Committee, or their designees.

Agency budget requests must be submitted to the committee at the same time as they are submitted to the commissioner of administration. The governor must submit the executive budget recommendations to the Joint Legislative Committee on the Budget no later than 45 days prior to each regular session except in the first year of a new legislative term when the recommendations are submitted 30 days prior to session.

The committee is authorized to hold public hearings each year for the purpose of examining and investigating the budget requests of each budget unit and the executive budget and is required to submit to the legislature a report of findings and recommendations on the executive budget no later than two weeks prior to each regular session.

During the interim between sessions, the Joint Legislative Committee on the Budget is authorized to approve or disapprove transfers of funds and budget adjustments through a process referred to as the “BA-7” process. It may also approve requests by Facility Planning and Control for use of interest earnings for capital construction projects. The committee is often extended broad authority to interpret and oversee implementation of legislative intent in regard to fiscal and budgetary matters.

### **Legislative Fiscal Office**

The Legislative Fiscal Office (LFO) is a joint office created to provide service, research, and technical staff assistance concerning fiscal matters to the members of the House of Representatives and the Senate (*R.S. 24:601 et seq.*). The office is subject to the general direction and supervision of the Joint Legislative Committee on the Budget. The legislative fiscal officer is elected as chief executive officer of the LFO by majority vote of the elected members of both houses. He may be removed by the same vote. The duties and functions of the LFO include the following:

*Budget analysis* – Analyze the annual budgets prepared by the executive branch and make recommendations to the Joint Legislative Committee on the Budget, other committees, and the legislature.

*Revenue forecasting* – Make continuous short- and long-range projections on revenues and expenditures.

*Committee assistance* – Review and evaluate requests/amendments for appropriations during legislative sessions and make presentations to the House Appropriations Committee, the Senate Finance Committee, and the legislature.

*Fiscal notes* – Evaluate legislation for fiscal effect and provide fiscal notes detailing the effect on revenues and expenditures of such proposed legislation. (*Joint Rule 4*) The fiscal note is a factual, brief, and concise estimate in dollars of the immediate and long-range fiscal effect of a measure.

*BA-7s* – Review on a monthly basis requests for budget adjustments (i.e., BA-7s) and make recommendations to the Budget Committee as to the merits of such request.

*Fiscal and economic impact statements* – Review on a monthly basis rules and regulations as submitted by the executive branch and inform the legislature and the public as to the fiscal and economic impact of such proposed rules and regulations (*R.S. 49:953*).

*Interim Emergency Board* – Evaluate requests submitted to the Interim Emergency Board and make recommendations of approval or disapproval of those requests to the legislature (*R.S. 39:461.3*).

*General information* – Answer the fiscal information requests of committees and individual legislators to the extent practical.

*Performance Progress Reports* – Analyze the reported performance of executive branch agencies on a quarterly basis and report to the Joint Legislative Committee on the Budget on results.

### **Legislative Auditor**

Article III, Section 11 of the Louisiana Constitution provides that the legislative auditor is to serve as fiscal advisor to the legislature and perform duties and functions provided by law related to auditing fiscal records of the state, its agencies and political subdivisions. The auditor is elected by a majority vote of the elected members of each house and may be removed by a two-thirds vote of the elected members of each house. The basic functions of the office of the legislative auditor encompass the following (*R.S. 24:511 et seq.*):

*Examination and audit* of books and accounts of the state treasury, public boards and commissions, agencies, departments, political subdivisions or public officials or employees, the scope of which may include certification of financial accountability, legal compliance, and evaluations of the economy, efficiency, and effectiveness of the entity being audited.

Approves the engagement and distributes the reports of CPA firms that audit local government.

*Audit* of a municipality or any public, quasi-public, or private agency receiving state funds when requested to do so by the Legislative Audit Advisory Council, the legislature, or a grand jury.

*Study and analysis* of state revenues and expenditures on a continuing basis and reports thereon to the legislature.

*Determination* of all funds in the state treasury.

*Preparation and submission* to the legislature and the governor, not later than the first day of each regular session, of a written statement of the financial condition of the state treasury at the close of the preceding fiscal year, with an itemized estimate of the anticipated revenues for the current and the succeeding fiscal year.

*Examination and audit* of the books and accounts of each tax collector at least once a year.

Preparation of *fiscal notes* for proposed legislation, which detail the legislation's effect on local government revenues and expenditures.

Conduct of *performance audits, program evaluations*, and other studies as needed to enable the legislature and its committees to evaluate the efficiency, effectiveness, and operation of state programs and activities.

Establish and maintain a comprehensive computerized *information system on boards, commissions, and like entities*, including financial and personnel information.

The legislative auditor is to be reimbursed for actual expenses incurred in connection with any local government audit or other audit services performed or any financial and compliance audit or examination of a state agency.

The legislative auditor fills the role of state auditor, state actuary, and reporter on the financial affairs of the state. In fulfilling these functions, the legislative auditor is aided and advised by

the Legislative Audit Advisory Council which is composed of five members of the House appointed by the speaker of the House and five members of the Senate appointed by the president of the Senate (*R.S. 24:551 et seq.*). The council is also responsible for reviewing and approving the annual budget for the office of the legislative auditor prior to its submission for legislative action and for setting his salary. The council has authority to hold hearings and subpoena witnesses. It assists the auditor by receiving reports from district attorneys on action taken in cases in which audits disclose possible fraud or illegalities. It may petition for writs of mandamus to require public bodies to furnish the auditor certain information required by law.

### **Legislative Actuary**

The legislative actuary serves as an advisor to the legislature on issues related to public retirement systems. The basic functions of this office (*R.S. 24:521*) encompass the following:

- (1) Preparation of actuarial notes, which are estimates of the immediate and long-range financial and actuarial effects of proposed legislation relative to any state, parochial, or municipal retirement system funded partially from public funds.
- (2) Response to requests for actuarial information requests of committees and individual legislators.

### **Interim Emergency Board**

The Interim Emergency Board (IEB), composed of the governor, lieutenant governor, state treasurer, the presiding officer of each house of the legislature, the chairman of the Senate Finance Committee, and the chairman of the House Appropriations Committee, or their designees, may appropriate money between legislative sessions from the state general fund or borrow on the full faith and credit of the state an amount to meet an emergency (*Const. Art. VII, §7 and R.S. 39:461 et seq.*). The total amount of such debt and appropriations must never exceed one-tenth of one percent of total state revenues for the previous fiscal year. Such appropriations or incurring of debt can only be made with the written consent of two-thirds of the elected members of each house of the legislature and only for emergencies which are defined by the constitution as events not reasonably anticipated by the legislature. An “event not reasonably anticipated” is defined as one not considered and rejected, in the same relative form or content, by the legislature during the preceding session either by specific legislative instrument or amendment.

### **THE CAPITAL OUTLAY PROCESS**

Article VII, Section 11(C) of the Louisiana Constitution requires the governor to submit to the legislature in each regular session a five-year capital outlay program with a request for implementation of the first year of the program. The governor must submit a preliminary capital outlay budget to the legislature no later than March 1st of each year and the capital outlay bill itself must be filed no later than the eighth day of each regular legislative session.

R.S. 39:101(A) provides that capital outlay requests must be submitted by state agencies to the division of administration and by local government agencies through their appropriate state legislators no later than November 1st of each year. (This does not apply to projects funded under the Transportation Trust Fund which follow the priority programs required by Article VII, Section 27 of the constitution.) The constitution requires that capital outlay projects must



be evaluated through a feasibility study prior to inclusion in the capital outlay bill adopted by the legislature. Completion of the request forms required by R.S. 39:101(A) and the subsequent evaluation of those studies by the facility planning and control section of the Division of Administration constitutes compliance with this requirement. Any project deemed not feasible after its evaluation cannot be included in the Capital Outlay Act.

Requests for construction are also submitted to the Joint Legislative Committee on Capital Outlay (*R.S. 24:661 et seq.*). The committee is composed of the members of the House Ways and Means Committee, the Senate Revenue and Fiscal Affairs Committee, the House Appropriations Committee chairman or a member of that committee appointed by the chairman, the Senate Finance Committee chairman or a member of that committee appointed by the chairman, the House speaker and four members of the House appointed by the speaker, the Senate president and four members of the Senate appointed by the president. The chairman of the Joint Highway Priority Construction Committee is one of the appointed members. The Joint Legislative Committee on Capital Outlay holds public hearings to review the requests and reports its findings to the full legislature at least a week prior to the regular session each spring.

Appropriations for construction of state highways, flood control projects, airports and ports are made pursuant to priority programs established by law. Projects are evaluated by the Department of Transportation and Development and submitted for review to the Joint Legislative Committee on Transportation, Highways and Public Works. The joint committee reviews the projects and holds public hearings throughout the state. Based upon the findings and recommendations of the committee, the department proposes the final program for the upcoming fiscal year.

From these sources the governor decides which projects are to be included in the capital outlay budget and included in the capital outlay bill presented to the legislature for the regular session each year. Projects included in the bill may be funded by cash sources such as the state general fund, self generated funds and other state and federal funds or by the sale of bonds.

Those projects funded by bonds are divided into priorities numbered one through five. Practically, projects listed in Priorities one and two will receive most, if not all, of the funding during that fiscal year. Priority one is generally limited to reauthorizations of certain previously authorized projects and commitments made to higher education desegregation consent decree requirements. Priority two is generally for completion of projects already under construction or projects which will be ready for construction during the fiscal year. Projects in priorities three through five normally will not actually receive funding until subsequent fiscal years. In fact, the Capital Outlay Act prohibits general obligation bonds from being sold to fund any lower priority project unless all projects in a higher priority have either been funded or declared "Impossible or Impractical" by the bond commission. A project may be moved to a higher priority if recommended by the Interim Emergency Board and approved by a majority of both houses of the legislature by ballot. Priority 5 is reserved for dollar amounts which can be approved for a non-cash line-of-credit in order to sign contracts for the entire amount of a project even though the total amount will not be required for cash payments in the upcoming fiscal year.

Certain projects in the bill are listed as "Not Requiring Priority" or "NRP" because they are financed by the reallocation of proceeds from prior bond sales. Also there are two types of bonds that are repaid from revenue generated by the project. Those funded by Revenue Bonds are not backed by the full faith and credit of Louisiana and do not require a priority designation

in the bill. Projects funded by Reimbursement Bonds are financed by bonds that are repaid, at least in part, from revenues from the project and are backed by the full faith and credit of the state.

Unlike most bills the legislature considers, the Capital Outlay Bill is heard by four different committees. The bill is heard by the House Appropriations Committee and the Senate Finance Committee to make the cash appropriations and by the House Ways and Means Committee and the Senate Revenue and Fiscal Affairs Committee to appropriate proceeds from the sale of bonds. Joint Rule No. 11 of the Rules of Order of the House of Representatives prohibits a vote being taken by the House on final passage of the Capital Outlay Bill after the 55th calendar day of the regular session and by the Senate after the 80th calendar day of the regular session.

Authorization for the sale of the bonds to fund construction is contained in the Omnibus Bond Authorization Act which is a companion bill to the Capital Outlay Act. Article VII, Section 6(A) of the Louisiana Constitution requires a two-thirds vote of each house of the legislature for the adoption of any bill authorizing the state to incur debt. In addition, Article VII, Section 6(B) requires that if bonds are to be issued for capital improvements, the nature, location, and amount allocated to each project are to be stated in the capital outlay budget.

The Capital Outlay Bill is often subject to numerous amendments by both the House and the Senate. Except for certain limited situations, all projects included in the bill adopted by the legislature must comply with the requirement that a feasibility study has been completed and has been submitted to the facility planning and control section by November 1st of the preceding year. As provided in R.S. 39:112(A)(3), projects may be included in the Capital Outlay Act if submitted after November 1st, provided that all of the other requirements for submission are met and one of the following conditions are met: (1) the project is an economic development project which is recommended in writing by the secretary of the Department of Economic Development or is an emergency project recommended in writing by the commissioner of administration; or (2) the project has been approved by the Joint Legislative Committee on Capital Outlay, however, no action may be taken by that committee after the last day for introduction of bills in either house of the legislature.

Article VII, Section 8 of the constitution provides that no bonds or other obligations may be issued or sold by the state unless approved by the bond commission. Louisiana's "debt limit" under Article VII, Section 6(F) of the constitution prohibits the bond commission from approving the issuance of any net state tax supported debt, the debt service requirement of which exceeds a certain percentage of monies received in the state general fund and dedicated funds as estimated by the Revenue Estimating Conference in its official forecast. This constitutional debt limit as well as the self-imposed limit on issuance of general obligation bonds has been discussed previously.



# STATE AND LOCAL GOVERNMENT IN LOUISIANA: AN OVERVIEW 2004-2008 TERM

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## Part II. Public Safety and Corrections

The Louisiana Department of Public Safety and Corrections was created in 1983 when the Department of Corrections was merged with the Department of Public Safety. The Department of Public Safety and Corrections has general authority for the security and physical safety of the citizens and property of Louisiana, the enforcement of laws and regulations pertaining to criminal conduct, automobile and highway safety, motor vehicles and drivers, and fire protection. Other responsibilities include the following:

- ! Providing and evaluating rehabilitation programs and post-release monitoring of convicted criminal offenders and adjudicated delinquents.
- ! Providing diagnostic services to the courts and other correctional authorities for sentence, treatment, and release decisions
- ! Administering programs to protect persons in its custody and preparing them for release
- ! Operating a probation and parole system
- ! Operating all penal and correctional institutions of the state
- ! Conducting and facilitating research in criminology and penology

The department is composed of the executive office of the secretary, public safety services, corrections services, and such other offices as shall be created by law. The secretary, the undersecretary for public safety services, and the undersecretary for corrections services are appointed by the governor, and the deputy secretaries of each office are appointed by the secretary.

*House Legislative Services*

### PUBLIC SAFETY

Public safety services includes the office of management and finance for public safety services, the office of state police, the office of legal affairs, the office of motor vehicles, the office of state fire marshal, code enforcement and building safety, as well as the deputy secretary of public safety services, the undersecretary for public safety services, and the assistant secretaries of those offices.

The deputy secretary of public safety services is also responsible for issuing the concealed handgun permits as provided by law (*R.S. 40:1379.3*).

### OFFICE OF STATE POLICE

The office of state police is responsible for the enforcement of the criminal and traffic laws of the state, as well as the maintenance of intelligence and investigative operations. It also provides a basic training curriculum in security work for all security personnel employed at the capitol complex, administrative state police office buildings, and state hospitals. Another responsibility of the office of state police includes the function of data processing required to be performed by the National Crime Information Center and the Louisiana Bureau of Criminal Identification and Information. Louisiana's 1,022 commissioned officers are organized into the following nine State Police Troops:

**Troop A** - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, West Baton Rouge, and West Feliciana.

**Troop B** - Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, and St. John the Baptist.

**Troop C** - Assumption, Lafourche, St. James (west bank of Mississippi River), St. John the Baptist (west bank of Mississippi River), and Terrebonne.

**Troop D** - Allen, Beauregard, Calcasieu, Cameron, and Jefferson Davis.

**Troop E** - Avoyelles, Catahoula, Concordia, Grant, LaSalle, Natchitoches, Rapides, Sabine, Vernon, and Winn.

**Troop F** - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, and West Carroll.

**Troop G** - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, and Webster .

**Troop I** - Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, and Vermilion.

**Troop L** - St. Helena, St. Tammany, Tangipahoa, and Washington.

The Weights and Standards Mobile Police Force also falls under the umbrella of the office of state police. Its duty includes the enforcement of size, width, height, length, and weight restrictions as they relate to trucks, trailers, and semitrailers in regular operation.

Also within the office of state police is the Gaming Enforcement Section. The functions of the division of charitable gaming control was transferred to the Department of Revenue pursuant to Act No. 568 of the 1999 Regular Session.

The Louisiana Gaming Control Board was placed within the Department of Public Safety and Corrections, effective May 1, 1996. The office of state police is required to:

- (1) Conduct investigations and audits regarding the qualifications of applicants for licenses or permits requiring suitability determinations as required by law or rule or determined necessary by the board.
- (2) Submit all investigative reports to the board for analysis, review, and action.
- (3) Conduct audits to assist the board in determining compliance with all gaming laws, rules, and regulations on gaming activities and operations under the board's jurisdiction.
- (4) Perform all other duties and functions necessary for the efficient, efficacious, and thorough regulation and control of gaming activities and operations under the board's jurisdiction.

#### **OFFICE OF MOTOR VEHICLES**

The Office of Motor Vehicles (OMV) within the Department of Public Safety and Corrections is charged with the examination and licensing of drivers of motor vehicles within the state, suspension and revocation of licenses, the approval of driver education programs, the issuance of title and registration certificates of vehicles, recordation of liens against motor vehicles, and the collection of appropriate fees and sales tax.

In an effort to reduce wait times in field offices, OMV offers certain drivers the option of renewing Class “E” and “D” drivers’ licenses and renewing motor vehicle registrations by mail, telephone, or by electronic commerce on the internet. Of course, driver’s license renewal using these innovative methods is limited to drivers who do not have any flags or blocks on their driving record. Furthermore, for the public’s convenience, a number of forms have been added to the OMV website. Additionally, OMV has opened express offices in Algiers and Baton Rouge where customers are able to conduct simple transactions with little to no wait time.

Recently, OMV introduced the Mobile Customer Service Center (MCSC) to the public which is a mobile OMV office equipped with the latest technology. The MCSC is designed to bring service directly to communities throughout the state that do not have local motor vehicle offices and to large employers on scheduled visits including colleges and universities, plants, hospitals, medical centers, state agencies and corporations. Appointments to schedule the MCSC can be made through OMV headquarters.

Lastly, OMV has established a toll-free hotline operating during regular Department of Public Safety and Corrections business hours, to provide accurate and complete information regarding drivers’ licenses and vehicle registrations.

#### **OFFICE OF STATE FIRE MARSHAL**

The office of state fire marshal, code enforcement and building safety performs generally the functions of the state relating to the protection of life and property from the hazards of fire and

of panic which may arise from fire or from the threat of fire or explosion including but not restricted to: (1) supervision and enforcement of safety standards and inspection; (2) arrest of individuals suspected of violations of certain criminal laws; (3) examination of the circumstances surrounding fires of suspicious origin and maintenance of records and reports on fires in this state; (4) exclusive power to investigate and to make and prescribe rules and regulations for the proper construction, installation, repair, use, operation, and safety of boilers in the state, except for the city of New Orleans; (5) examination and certification of boiler inspector examiners; and (6) regulation of the fire sprinkler installation industry. The office also regulates various industries related to private security including but not limited to installers of alarm systems and locksmiths. Other regulated industries include explosives, fireworks, and amusement rides.

### CORRECTIONS

Corrections services includes the office of management and finance, the office of adult services, and the office of youth development as well as the deputy secretary of corrections services, the undersecretary for corrections services, and the assistant secretaries of those offices.

The department is responsible for the creation and evaluation of rehabilitation programs which the department deems appropriate and for post-release monitoring of convicted criminal offenders and adjudicated delinquents. The department also provides information and evaluations to the courts and other criminal justice authorities for sentencing, treatment and release decisions and administers programs to protect persons in its custody and to prepare them for release.

The office of adult services is responsible for the operation of adult correctional institutions, work release programs, and the probation and parole programs for adults. There are twelve adult correctional institutions in Louisiana, including two of which are operated under contractual agreements with different private management corporations.

The department has been charged with the responsibility for establishing and administering a probation and parole system in this state. The Board of Pardons consists of five persons appointed by the governor and considers requests for various forms of clemency, e.g., commutation of sentences, and pardon of those convicted of offenses against the state. The Board of Parole consists of seven members appointed by the governor and considers the time and conditions of release on parole of a person convicted of a felony and sentenced to imprisonment.

#### **Adult Correctional Institutions**

- (1) Allen Correctional Center (ALC), located in Kinder
- (2) Avoyelles Correctional Center (AVC), located in Cottonport.
- (3) C. Paul Phelps Correctional Center (CPPCC), located in DeQuincy
- (4) David Wade Correctional Center (DWCC), located in Homer
- (5) Dixon Correctional Institute (DCI), located in Jackson
- (6) Elayn Hunt Correctional Center (EHCC), located in St. Gabriel. (The Adult Reception and Diagnostic Center, to which all male adult offenders committed to Corrections are sent for processing, is located here).
- (7) Forcht-Wade Correctional Center (FWCC), located in Keithville
- (8) J. Levy Dabadie Correctional Center (DCC), located in Pineville
- (9) Louisiana Correctional Institute for Women (LCIW), located in St. Gabriel
- (10) Louisiana State Penitentiary (LSP), located in Angola.
- (11) Washington Correctional Institute (WCI), located in Angie.
- (12) Winn Correctional Center (WNC), located in Winnfield.

The Prison Enterprises Board consists of seven members appointed by the governor. Its purpose is to provide persons currently incarcerated in state correctional facilities with work training and experience while producing various products necessary for use in those facilities. Prison Enterprises also offers a variety of items for sale to state and local governmental entities, including cleaning supplies, office furniture, and clothing items. collect a per diem for performing advisory duties with regard to agricultural, aquacultural, and industrial programs operated by the department's prison enterprises division.

The office of youth development is responsible for the care, custody, security, and treatment of children adjudicated delinquent or in need of supervision, who have been placed within the custody or supervision of the department. The office of youth development is responsible for the operation of the following correctional centers for juveniles: (1) Bridge City Correctional Center for Youth at Bridge City, (2) Jetson Correctional Center for Youth at Baker, (3) Swanson Correctional Center for Youth at Monroe, and (4) Swanson Correctional Center for Youth - Madison Parish Unit at Tallulah. (Note that Act 1225 of the 2003 Regular Session requires the closure of SCCY-MPU as a facility for juveniles no later than Dec. 31, 2004.) Other functions of the office include evaluation and diagnostic services for adjudicated youth or those in need of supervision, community placement services, alternative services in lieu of out-of-home placement for adjudicated youth, treatment services in secure custody facilities for certain delinquent offenders, probation and parole supervision for youth, and community services directed at prevention of juvenile delinquency.

Act 1225 of the 2003 Regular Session was a comprehensive piece of legislation aimed at juvenile justice reform. It created the Juvenile Justice Reform Act Implementation Commission to address many issues affecting juveniles including the closure of the Swanson Correctional Center for Youth - Madison Parish Unit at Tallulah and the creation of a single state entity for providing services to children and their families. Act 1225 included legislative findings including the finding that a single state entity should incorporate, to the extent deemed appropriate by the commission, services rendered by the office of community services, Dept. of Social Services, the office of public health and the office of mental health, Dept. of Health and Hospitals, the office of youth development, Dept. of Public Safety and Corrections, and the Dept. of Education. Act 1225 requires the commission to submit a comprehensive plan to the governor and legislature for adoption and enactment during the 2004 Regular Session.

A number of boards and commissions have been transferred to the Dept. of Public Safety and Corrections: Louisiana Highway Safety Commission Fire Prevention Board of Review; Fireman's Supplemental Pay Board; Board of Review for extra compensation for municipal police officers; Board of Parole; Board of Pardons; Riverboat Gaming Commission; Weights and Standards Police Force (mobile units only); State Licensing Board for Locksmiths; Stress Analysts Board; Louisiana State Board of Private Security Examiners; Louisiana Medical Advisory Council; Prison Enterprises Board; the Liquefied Petroleum Gas Commission; Board of Review to the fire marshal; Louisiana Motor Carrier Advisory Committee; Interagency Recreation Board; Louisiana State Board of Private Investigator Examiners; Louisiana Alarm Services Advisory Board; Louisiana Gaming Control Board; Louisiana Gaming Control Board Hearing Office; and the Louisiana Truck Center.



## DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS

### PUBLIC SAFETY SERVICES APPROPRIATED FY 03/04

MEANS OF FINANCING	TOTAL BUDGET	Management and Finance	Office of State Police	Office of Motor Vehicles	Office of Legal Affairs
STATE GENERAL FUND (Direct)	\$ 10,407,836	\$ 5,907,836	\$ 4,500,000	\$ 0	\$ 0
STATE GENERAL FUND BY:					
Interagency Transfers	\$ 29,325,906	\$ 0	\$ 0	\$ 0	\$ 0
Fees & Self-gen. Revenues	\$ 99,202,195	\$ 22,954,258	\$ 27,845,203	\$ 43,387,167	\$ 2,373,591
Statutory Dedications	\$ 152,394,146	\$ 2,879,550	\$ 123,899,424	\$ 15,484,643	\$ 0
Interim Emergency Board	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
FEDERAL FUNDS	\$ 37,728,307	\$ 0	\$ 6,632,349	\$ 291,336	\$ 0
TOTAL MEANS OF FINANCING	\$ 329,058,390	\$ 31,741,644	\$ 191,972,882	\$ 59,163,146	\$ 2,373,591
AUTHORIZED AND APPROPRIATED POSITIONS	2,888	207	1,684	776	14

### MEANS OF FINANCING

MEANS OF FINANCING	Office of State Fire Marshal	Gaming Control Board	Petroleum Gas Comm.	LA Highway Safety Comm.
STATE GENERAL FUND (Direct)	\$ 0	\$ 0	\$ 0	\$ 0
STATE GENERAL FUND BY:				
Interagency Transfers	\$ 230,000	\$ 0	\$ 0	\$ 0
Fees & Self-gen. Revenues	\$ 2,490,902	\$ 0	\$ 0	\$ 151,074
Statutory Dedications	\$ 8,272,011	\$ 1,164,126	\$ 694,392	\$ 0
Interim Emergency Board	\$ 0	\$ 0	\$ 0	\$ 0
FEDERAL FUNDS	\$ 0	\$ 0	\$ 0	\$ 30,804,622
TOTAL MEANS OF FINANCING	\$ 10,992,913	\$ 1,64,126	\$ 694,392	\$ 30,955,696
AUTHORIZED AND APPROPRIATED POSITIONS	180	3	10	14

Prepared by House Fiscal Division

**CORRECTIONS SERVICES**  
**APPROPRIATED FY 03/04**

STATE GENERAL FUND (Direct)  
STATE GENERAL FUND BY:

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*House Legislative Services*

## Part III. Education

Louisiana's constitution places the responsibility for providing for the education of the people of the state and for establishing and maintaining a system of public education with the legislative branch of state government. The goal of the public education system, as also set forth by the constitution, is "...to provide learning environments and experiences, at all stages of human development, that are humane, just, and designed to promote excellence in order that every individual may be afforded an equal opportunity to develop to his full potential." (*Const. Art. VIII, Preamble and §1*)

In responding to its mandate, the legislature allocates more state dollars for education purposes than for any other program. For FY 03-04, education spending constitutes 54% of the state's current general fund budget and 36% of total state spending from all sources. More than \$6 billion (including federal funds and all other means of finance) was appropriated by the legislature for all of education for FY 03-04. (*See page 125 for distribution of funds.*)

The following are examples which illustrate the breadth and scope of the education programs and services provided to Louisiana citizens:

- ! Provides services to 725,027 registered students in 1502 **public elementary and secondary schools** at an average per pupil state funds amount of \$3,498. (FY 01-02)
- ! Provides state-level funding (through the annual minimum foundation program [MFP]) supporting **salaries** and related benefits of 49,352 full-time equivalent public school classroom teachers and approximately 49,233 other full-time equivalent local school system employees. (FY 01-02)
- ! Provides limited financial assistance (primarily for textbooks, transportation, school lunch salary

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supplements, and certain administrative costs) for the education of 137,670 students enrolled in 376 **nonpublic elementary and secondary schools**. Nonpublic enrollment currently constitutes approximately 16% of the state's total k-12 school enrollment. State aid to approved nonpublic k-12 schools that also meet certain court-mandated nondiscrimination guidelines is \$30 million. To be "approved" by the State Board of Elementary and Secondary Education (BESE), a nonpublic k-12 school must have a sustained curriculum or specialized course of study of quality at least equal to that prescribed for similar public schools.

- ! Reviews and processes initial and annual renewal applications for k-12 students to participate in approved **home study programs**. As of October, 2003, 6,392 students were in approved home study programs. To be approved, a home study program must offer a sustained curriculum of a quality at least equal to that offered by public schools at the same grade level.
- ! For FY 01-02, provided **adult education programs** to 32,700 persons, of which 10,772 were recommended for GED Testing.
- ! Operates special schools as part of Special School Districts for students in state hospitals, developmental centers, and juvenile correctional facilities, and also operates, as residential facilities, **state schools** for the visually impaired and for the deaf, a special education center, a high school offering specialized curriculums in math, science, and the arts, and a school for the creative arts.<sup>1</sup>
- ! Louisiana's public postsecondary education system includes 40 campuses of the Louisiana Technical College, 11 institutions that offer programs and academic degrees at less than the baccalaureate level (also referred to as the "community colleges and two-year schools"), 14 institutions that offer programs and academic degrees including at the baccalaureate level and above (also referred to as the "four-year schools"), two law schools, and two medical schools.
- ! Licenses and regulates all approved **proprietary schools**. A proprietary school is a nonpublic facility that sells mostly postsecondary instruction which is intended to lead to an occupation. There are 149 approved proprietary schools throughout the state. However, this number changes frequently due to school openings and closings.
- ! Funds programs and services provided by BESE/Department of Education, the Board of Regents, four postsecondary education management boards, the state's Office of Student Financial Assistance, the Louisiana Education Television Authority, and the Council for the Development of French in Louisiana.

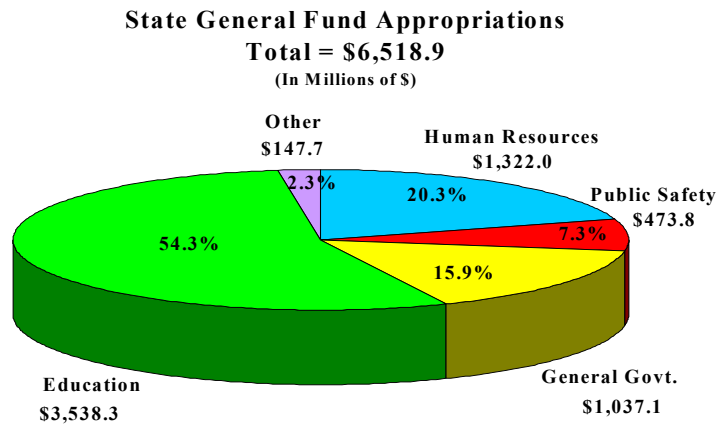
While the constitution places overall responsibility for education in Louisiana with the legislature, a number of state executive branch agencies and boards, as well as 68 local school boards, also have constitutional status and specified responsibilities involving education. The accompanying organization chart, **Governance of Public Education**, depicts, in part, the current governance structure for providing education services in the state.

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<sup>1</sup>*The state also created the Louis Armstrong High School for the Arts in 1997 as a residential institution. The school may open when all capital construction needs for the first 10 years have been met or funding for such construction has been secured.*

### Distribution of Appropriated Funds 2003-2004

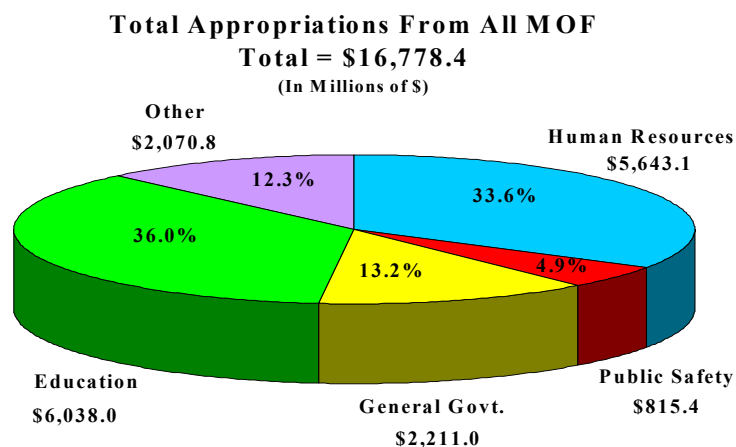
The following pie chart displays State General Fund appropriations of \$6.5 billion for FY 03-04 by major functional areas of state government spending:



*Note: Other includes Economic Development, Culture, Labor, Environment, Natural Resources, Wildlife and Fisheries, Agriculture, DOTD, and Capital Outlay*

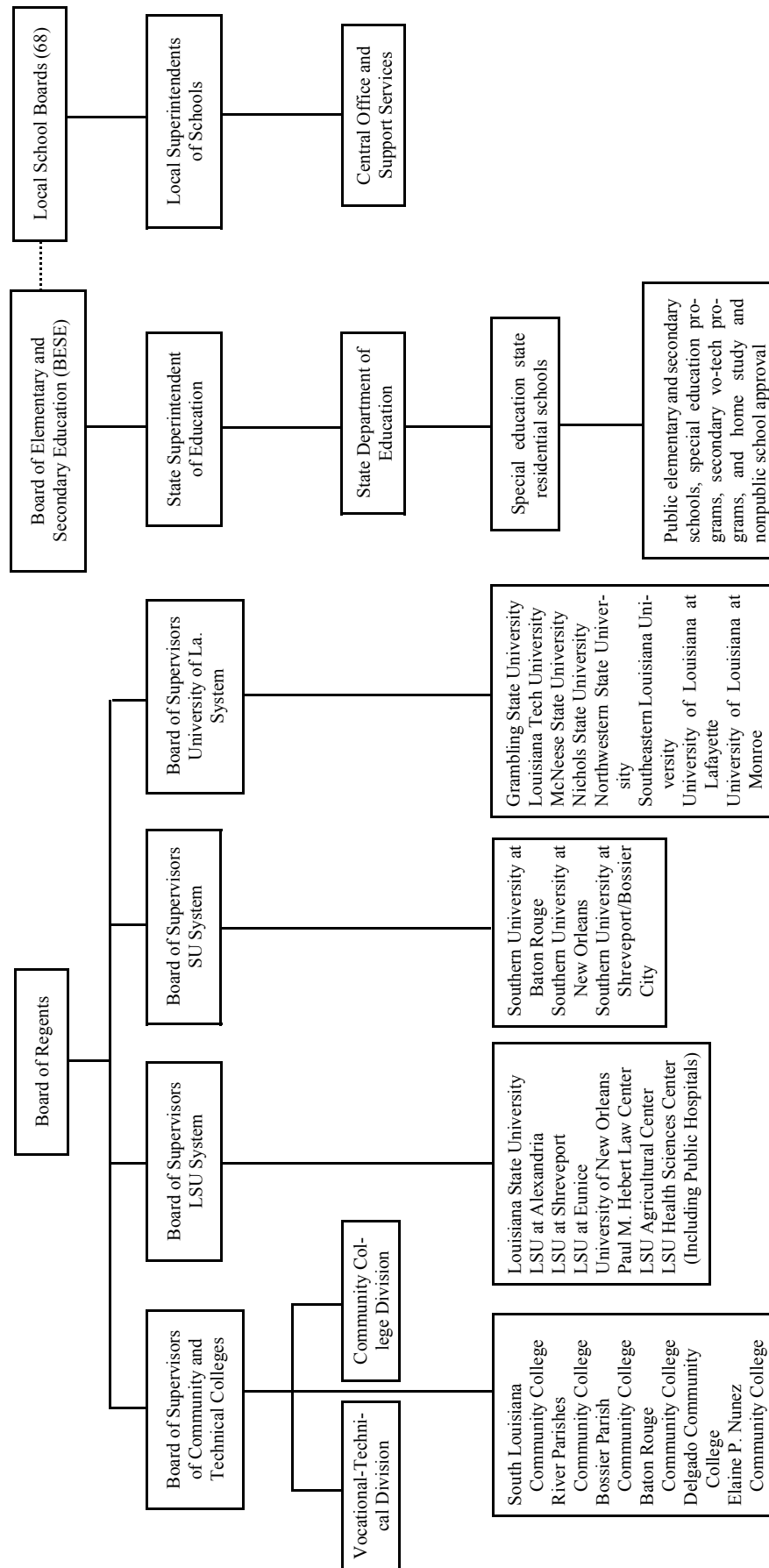
Of the amount for education, \$2.2 billion is for the minimum foundation program (\$107.3 million more in MFP funding comes from lottery funds, \$96.8 million comes from the SELF Fund, and \$142.6 million is financed from monies received by the state from the Federal Fiscal Relief Act) and \$1.0 billion is for higher education. Human resources funding includes \$741 million in State General Fund monies as state match for the medicaid program which makes up 59% of the total \$1.25 billion medicaid match requirement.

The distribution among functional areas of state government changes when all means of financing are included. This is primarily due to the inclusion of medicaid and other federal funding for human resources, the Transportation Trust Fund for Capital Outlay (in the Other category), and self-generated revenue from tuition and federal funding in education. Total appropriations of \$16.8 billion are distributed as follows:



*Note: Other includes Economic Development, Culture, Labor, Environment, Natural Resources, Wildlife and Fisheries, Agriculture, DOTD, and Capital Outlay*

# GOVERNANCE OF PUBLIC EDUCATION<sup>1</sup>



<sup>1</sup>Excludes independent boards and commissions having specialized functions and advisory commissions and task forces. For a more detailed listing of these groups as they exist in the formal organization of state government and for the organizational structure within the State Department of Education, see page 42.

**ELEMENTARY AND SECONDARY EDUCATION GOVERNANCE****State Board of Elementary and Secondary Education (BESE)**

The State Board of Elementary and Secondary Education (BESE) is created by the constitution to: (1) supervise and control public elementary and secondary schools and special schools under its jurisdiction and (2) have budgetary responsibility for all funds appropriated or allocated by the state for these schools, all as provided by law.

BESE membership consists of eleven persons, one elected from each of the state's eight BESE districts and three appointed from the state at large by the governor with the consent of the Senate. Members serve four-year terms concurrent with the term of the governor. Although board members must serve without pay, they do collect per diem and travel expenses while conducting board business.

BESE was established as a result of the 1973 Constitutional Convention which completely rewrote Article XII of the Constitution of 1921 entitled "Public Education" and the vast number of amendments which had been added over a fifty-year period. Prior to adoption of the 1974 Constitution, education at all levels (except LSU) had been governed by a single state board of education. During that time there was an elected state superintendent of public education who was also ex officio secretary to the state board and who served as the primary administrator and chief state school officer for elementary and secondary education. After 1974, BESE became the administrative policymaking body for elementary and secondary education, vocational-technical training, special schools, and units in Special School District No. 1.

In 1998, legislation was enacted which transferred (effective July 1, 1999) responsibility for the management of all postsecondary vocational-technical schools from BESE to the newly created Board of Supervisors of Community and Technical Colleges. (*See LCTCS herein*)

Other constitutional duties of BESE include: (1) approving certain nonpublic elementary and secondary schools; (2) prescribing school books and other materials of instruction at the elementary and secondary level; (3) developing and adopting annually a formula determining the cost of a minimum foundation program (MFP) of education in all public elementary and secondary schools and equitably allocating funds appropriated by the legislature to parish, city, and other local public school systems; and (4) administering the Louisiana Quality Education Trust Fund Program. BESE must also fix the qualifications and prescribe the duties of the local superintendents of schools, but the board is constitutionally prohibited from having control over the business affairs of a parish, city, or other local public school board or the selection or removal of its officers and employees.

Constitutional and statutory changes in 2003 authorized BESE to supervise, manage, and operate any public elementary or secondary school determined to be a failing school pursuant to the Louisiana School and District Accountability System or to provide for others to do so. This legislation also authorized BESE to receive, control, and expend MFP funds and local funds contributed pursuant to the MFP or otherwise in amounts calculated based on the number of students in attendance in such a school, all as provided by law. (*Const. Art. VII, §10.1 and VIII, §§2, 3, 4, & 13*). Companion legislation was enacted along with this constitutional authority to provide for the temporary transfer by BESE of a failing school to a "Recovery School District". This new district cannot levy taxes, but it can make decisions regarding funding, supervision, management, and operation of the failed school. The Recovery School



District is authorized to contract with a postsecondary education university to run the school or turn it into a new type of charter school run by a nonprofit organization. The Recovery School District is prohibited from contracting with a for-profit group to operate the school or provide instructional services. This legislation further specifies how and when a school will be returned to the local school district and requires BESE to take certain actions if the school does not improve in four years after it is transferred.

In addition to its constitutional duties, BESE also has numerous responsibilities as prescribed by statutory law which, for the most part, can be found in Title 17 of the Louisiana Revised Statutes. These generally can be categorized under the following headings: budgetary responsibilities, school curriculum and educational programs, assessment and accountability programs, teacher and administrator qualifications and certification, teacher education, and school approval and regulation. (*R.S. 17:1-16*) The legislature is required by the constitution to appropriate funds for the operating and administrative expenses of the board.

### **State Superintendent/State Department of Education**

The superintendent of education for public elementary and secondary education is the administrative head of the state Department of Education. The office is required by the state constitution. The superintendent is mandated to implement the policies of BESE and the laws affecting schools under BESE jurisdiction. (*Const. Art. VIII, §2*) The structure of the Department of Education, as defined in the state's reorganization law (*R.S. 36:641 et seq.*), is charted on page 42.

From 1974 to 1988, the state superintendent was elected as the superintendent had been under the 1921 constitution. In 1985, the legislature used its constitutional authority to make the office of the state superintendent an appointed office rather than an elected office. Legislation was enacted which mandated that, beginning with the 1988 term of office, the state superintendent be appointed by a two-thirds vote of BESE members, subject to confirmation by the Senate. State law requires that BESE enter into a contract with the appointed superintendent. The length of the contract is determined by the board, but may not extend past the end of the term of office of the board members making the appointment, except that the contract may provide that the superintendent may serve until the succeeding board has made an appointment. (*R.S. 17:21(C)*). The state superintendent, like BESE, also has numerous functions and responsibilities which are designated by statute and which can be categorized under the same general headings as those of BESE. As both constitutional and statutory entities, the board and the superintendent are subject to the restraints usually imposed on public agencies which derive from the veto powers of the governor, the fiscal controls of the legislature, and, except as limited by the constitution, the lawmaking and oversight authority of the legislature.

### **Local School Boards**

Elementary and secondary education on the local level is governed by parish school boards in each of the 64 parishes, by three city school boards which oversee the separate city school systems in Baker, Bogalusa, and Monroe, and by a school board for the Zachary community school system. These local boards levy authorized sales and property taxes, select local superintendents, adopt and execute budgets, select teachers, administrators, and other school personnel and fix their salaries, provide for dismissal of teachers and other school employees, determine the number and location of schools, and generally implement state law and BESE regulations pertaining to public elementary and secondary education.

State law prohibits a member of a local school board from acting in an individual capacity without the authorization of the school board to use the authority of his office or position, directly or indirectly, in a manner intended to compel or coerce any personnel decision, including the promotion, discipline, discharge, or assignment of work to any school employee. A board member also is prohibited from using the authority of his office or position, directly or indirectly, in a manner intended to compel or coerce any school employee to make any decision concerning benefits, work assignment, or membership in any organization. (R.S. 17:81(P))

As noted earlier, the constitution requires the legislature to create parish school boards and to provide for the election of their members. The constitution also subjects the current 68 local systems to the control and supervision of BESE and the power of the legislature to enact laws affecting them. At the same time, the constitution specifically prohibits the legislature from passing a local or special law regulating the management of parish or city public schools, the building or repairing of parish or city schoolhouses, or the raising of money for such purposes. (*Const. Art. III, §12*) The consolidation of two or more school systems is permitted when approved by a majority of the electors voting in each system affected. (*Const. Art. VIII, §§9 & 10*)

The legislature in 1980 provided for four-year concurrent terms for school board members beginning in 1986 with election at the time of the congressional election. Prior to this, school board members were elected for overlapping six-year terms, with approximately one-third of the membership being elected every two years at the congressional election. (R.S. 17:52) State law provides that school board members shall be elected from police jury wards in the same number as police jurors, or in accordance with the then current reapportionment plan as authorized by law, or in accordance with any special law applicable to the board. (R.S. 17:52) Provisions for reapportionment of local school boards authorize apportionment plans based on population which may provide for school board election districts which are not necessarily coterminous with election districts of the parish governing authority. Districts may be single or multimember. Plans are subject to pre-clearance by the U.S. Department of Justice under the Voting Rights Act. (R.S. 17:71.1 *et seq.*)

There are special statutory provisions for the school boards in the parishes of Caddo, East Baton Rouge, Jefferson, Orleans, St. Charles, and St. Tammany and for the City of Baker and Zachary community school boards and for school boards meeting certain specified criteria.

School board members are authorized to receive compensation not to exceed \$50 per day for every meeting of the school board. School board members cannot be paid for more than 144 days in any one year nor for more than twelve meetings per month. However, by a majority vote of its elected members, a school board may elect to receive, in lieu of per diem, compensation in the form of an expense allowance of no more than \$800 per month for members and \$900 per month for the board president. Additionally, members may receive the same mileage allowance as provided to state elected officials for going to and from board meetings as well as reimbursement for travel and related expenses outside the school board's jurisdiction while on school board business. Reimbursements for such travel and related expenses cannot exceed those permitted by state travel regulations for state executive branch employees. A two-thirds majority vote of the board is required for any increase in compensation. (R.S. 17:56 and 81(O))

### Local Superintendent

Each local school board is required by the constitution and statutes to elect a superintendent of schools. The superintendent need not be a resident of the parish in which he is employed. (*Const. Art. VIII, §9(B)*)

While BESE determines the superintendent's qualifications and duties, a superintendent basically serves as the chief administrative officer of the local board. In effect, he is the manager of the school system. System superintendents are required by statute to visit each school in the system as often as possible and to exert their best endeavors in promoting the cause of public education. They are obligated to carry out the requirements of the state school laws and the rules and regulations made for the schools by BESE. (*R.S. 17:91*) Further statutory provisions relative to local school superintendents are numerous and are found throughout Title 17.

### Special Education

State policy concerning educational opportunities for children with exceptionalities, as declared by the legislature, requires state and local public school systems to provide an appropriate, free, publicly supported education to every child with an exceptionality and to provide such special education programs and related services in the least restrictive alternative education settings. As defined by statute, a child with an exceptionality is one who meets specified criteria, is between the ages of three and twenty-one, and may require special education or related services as a result of being identified as having mental disabilities, hearing impairments (including deafness), multiple disabilities, deaf-blindness, speech or language impairments, visual impairments (including blindness), emotional/behavioral disorders, orthopedic impairments, other health impairments, specific learning disabilities, which include perceptual disabilities, brain injury, minimal brain dysfunction, developmental aphasia and dyslexia, traumatic brain injury, or autism, or as being gifted or talented, and as a result may require special education or related services. This may also include a child with a disability, aged three through nine experiencing developmental delays.

The responsibility continues regardless of whether the child with an exceptionality is provided special education services through a contract entered into by a school board with a public or private agency, by Special School District No. 1 (established to provide special education to children who are enrolled in state-operated juvenile correctional facilities, state hospitals, and developmentally disabled centers), or by an approved nonpublic school program. In addition to Special School District No. 1, another school district was created by law in 1999 (known as Special School District No. 2) with the purpose of providing an appropriate education for children who are assigned by the Department of Public Safety and Corrections for confinement in any correctional center for youth that is privately operated in accordance with a cooperative endeavor or contract agreement with the state or any political subdivision. However, currently Special School District No. 2 provides regular and special educational services to children who are enrolled in a state-operated correctional facility under the management of the Department of Public Safety and Corrections. Service may be provided to children below the age of three who have serious handicapping conditions that could worsen by the time they attain school age.

The state's three approved special schools and Special School Districts Nos. 1 and 2 are governed by BESE which, in turn, has delegated its responsibilities for general supervision of these units to the state Department of Education. The board's governing authority is established in constitutional and statutory laws and the governing structure and the delineation

of functions are set by board policy. Each of the three special schools (Louisiana School for the Deaf, Louisiana School for the Visually Impaired, and the Louisiana Special Education Center) has a superintendent who is appointed by the state superintendent of education subject to approval by the board. Special School Districts Nos. 1 and 2 have a state director who is chosen in the same manner as are the special school superintendents.

The local systems also have certain other responsibilities for providing educational services to children with exceptionalities as required by law. These responsibilities include providing whatever transportation is necessary for any child with an exceptionality according to certain guidelines and removing any architectural barriers which may prevent a child with an exceptionality from being educated in the least restrictive environment. (*R.S. 17:1941 et seq.*)

### **Early Childhood Education**

The state Department of Education administers four educational programs funded with federal money for four-year-olds in Louisiana. BESE administers one early childhood program which is funded with monies from the Louisiana Education Quality Trust Fund ("8(g)"). (*See Education Quality Trust Fund herein*) The five programs are as follows:

- ' LA 4 Early Childhood Development Program
- ' Title I Preschool
- ' Even Start
- ' Starting Points Preschool Program
- ' 8(g) Early Childhood Program

In addition, Head Start, administered by the Louisiana Head Start Association and funded by the U.S. Department of Health and Human Services, operates educational programs for four-year-olds throughout the state.

These early childhood development programs are primarily aimed at providing services to "at-risk" children. "At-risk" children are defined as those who qualify for free and reduced price lunch programs. These children constitute approximately 62% of Louisiana's four-year-old population. In the 2002-2003 school year, Louisiana's public early childhood development programs served about 26,000 of the nearly 42,000 at-risk four-year-olds in the state.

In addition to these public programs, there is also a nonpublic prekindergarten program that is funded with federal funds (Temporary Assistance To Needy Families (TANF)) and administered through the governor's office. This program provides for the coordination of high quality early childhood education for four-year-olds from low-income families in Orleans Parish nonpublic schools and other localities with identified capacity to offer programming through nonpublic schools.

### **School and District Accountability**

In 1997, legislation was enacted creating the District and School Advisory Commission to develop and recommend to BESE a statewide system of school and district accountability. In

1998, the advisory commission issued its report and recommendations to BESE which modified the recommendations and adopted the Louisiana School and District Accountability System. Implementation of the system in public schools began in 1999 and the 2003-2004 school year marks the sixth year of implementation.

As part of the accountability system, each school annually receives a School Performance Score (SPS) which indicates how well its students are performing. The SPS is based on results from the Louisiana Educational Assessment Program for the 21<sup>st</sup> Century (LEAP 21), the IOWA Tests, school attendance data, and dropout data. Based on these SPS, each school is given a performance label each year which determines how much academic growth, if any, the school needs to make in order to reach the goals set by the state. Schools meeting their growth targets and showing certain growth in student performance receive recognition and rewards and schools in need of improvement are required to receive technical and other support and assistance from the state.

A major component of the accountability system is high-stakes testing for students. The LEAP 21 state testing policy as adopted by BESE requires all public school fourth and eighth grade students to score at a certain level on the English and mathematics portions of the tests in order to be promoted to the next grade. Students who fail either or both of the English and mathematics portions of the tests have an opportunity to attend summer school and to retake the tests. The testing policy provides waivers for certain students with disabilities, for students with Limited English Proficiency, and for students who cannot take or complete the tests due to certain extenuating circumstances. It also provides for an appeals process for students meeting certain criteria. There is some flexibility allowed to local school systems in making retention and promotion decisions for students provided that such decisions are made in accordance with the local pupil progression plan. This implementation of high-stakes testing is part of Louisiana's education reform program (*Reaching for Results*) and is intended to eliminate social promotion – the practice of passing students to the next grade even if they do not possess the skills needed to succeed.

### **The Education Excellence Fund**

The Education Excellence Fund (EEF), a special fund constitutionally established within the Millennium Trust, receives a specified share of the state's proceeds from the "tobacco settlement" agreement and certain trust related investment earnings. Fund earnings from interest, dividends, and realized capital gains on investment of the trust are available for legislative appropriations annually. Local school boards share in the bulk of such monies in accordance with specific allocation guidelines and amounts.

The constitution also provides as follows relative to the appropriation of fund monies to other education entities:

- ! Fifteen percent of monies available for appropriations in any fiscal year must be appropriated to the state superintendent of education for distribution on behalf of all children attending state-approved nonpublic elementary and secondary schools who are otherwise eligible to receive state funds. The state superintendent of education is responsible for allocating all money due nonpublic schools.
- ! An appropriation of \$75,000 plus a specified per pupil allocation must be made each year to the Louisiana School for the Deaf, the Louisiana School for the Visually Impaired, the

Louisiana School for Math, Science, and the Arts, the New Orleans Center for Creative Arts, and, when operational, the Louis Armstrong High School for the Arts.

- ! Appropriations, based on specified guidelines, may be made for independent public schools, e.g., charter schools, which have been approved by BESE or any local school board and for alternative schools and programs which are authorized and approved by BESE but are not subject to the jurisdiction and management of any local school system.

Funds monies are restricted to expenditures for pre-kindergarten through twelfth grade instructional enhancement for students, including early childhood education programs focused on enhancing the preparation of at-risk children for school, remedial instruction, and assistance to children who fail to achieve the required scores on any tests, passage of which are required pursuant to state law or rule for advancement to the succeeding grade or other educational program approved by the legislature. Expenditures for maintenance or renovation of buildings, capital improvements, and increases in employee salaries are prohibited.

No appropriation of fund monies can displace, replace, or supplant state general fund appropriations for elementary and secondary education, including implementing the MFP. The state constitution specifies that this means that no fund appropriation for any fiscal year shall be made for any purpose for which a general fund appropriation was made in the previous year unless the total appropriations for the fiscal year from the general fund for such purpose exceed general fund appropriations of the previous year. The constitution further provides that fund monies allocated to a local school board cannot displace, replace, or supplant locally generated revenue and states that this means that no allocation to any local school board from EEF investment earnings shall be expended for any purpose for which a local revenue source was expended for that purpose for the previous year unless the total of the local revenue amount expended that fiscal year exceeds the total of such local revenue amounts for the previous fiscal year.

Each recipient school or school system must annually prepare and submit to the state Department of Education a prioritized plan for expenditure of EEF monies it expects to receive in the coming year. The plan must include performance expectations to ensure accountability in the expenditure of such monies. The department is required to review such plans for compliance with this requirement and to assure that the expenditure plans will support excellence in educational practice. No funds may be distributed to any school or school system until its plan has been approved by the department and the legislature as provided by law.

### **Charter Schools**

In Louisiana, the term “charter school” means an independent public school operating a program of elementary or secondary education, or both, to provide a learning environment that will improve pupil achievement. The Charter School Demonstration Programs Law (originally enacted in 1995 and substantially revised in 1997) authorizes the creation of up to 42 charter schools statewide and establishes guidelines and procedures for doing so. The law specifies that the best interest of at-risk pupils shall be the overriding consideration in its implementation.

Local school boards and, in specific situations, BESE serve as chartering authorities. Charters are initially granted for a period of five years and may be renewed for subsequent 10-year periods. As of November 2003, there were 16 charter schools operating in Louisiana.

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The following are eligible to apply to operate a charter school provided the group includes at least three persons holding a valid and current Louisiana teacher certificate:

- C A group of three or more teachers.
- C A group of 10 or more citizens.
- C A public service organization.
- C A business or corporate entity (with certain exceptions) registered to do business in the state.
- C A Louisiana college or university licensed by the Board of Regents.
- C The faculty and staff of any city or parish public school or any local school board.

A charter is prohibited from being supported by or affiliated with any religion or religious group and cannot result from the conversion of a private school or home study program.

Charter schools are exempt from a number of state laws and regulations governing public schools but they must participate in state mandated student testing programs and are held accountable for student achievement and other specific results pursuant to their respective chartering agreements. Charter schools are subject to applicable school desegregation court orders, the public bid law, the open meetings law, the public records law, the Code of Governmental Ethics (with certain exceptions), and certain financial audits required by state law. Charter schools also are required to comply with certain federal court-mandated nondiscrimination guidelines. In addition, while a charter school can establish admission requirements that are consistent with its role, scope, and mission, a school's admission policy cannot exclude pupils based on race, religion, gender, ethnicity, national origin, need for special education services, or intelligence level as determined by an IQ test.

Most charter schools receive funding through the respective local school boards. In instances where a local school board fails to approve a group's charter proposal in a timely manner or imposes conditions that are not acceptable to the group and the school is subsequently chartered by BESE pursuant to the established appeals procedure, funding is provided by the state through the state Department of Education. In addition to receiving a per pupil amount based on the state's minimum foundation program (MFP) allocation for the respective school system and certain local revenues, a charter school is entitled to other state and federal funds for which the school or its pupils qualify, including special education funds.

The state also has created the Louisiana Charter School Start-Up Loan Fund, administered by BESE, to provide loans to assist charter schools (with certain exceptions) with initial costs. Loan funding may be used only for facility acquisition, upgrade, and repairs and to purchase tangible items such as equipment, technology, and instructional materials, and for other educational purposes as determined by the legislature. The interest-free loans cannot exceed \$100,000 and must be repaid within three years. (*R.S. 17:3971-4001*)

## ELEMENTARY AND SECONDARY EDUCATION FUNDING

### General

The state budget for elementary and secondary education for FY 03-04, including federal funds, self-generated funds, and other revenue sources totals over \$3.9 billion. Of this, approximately

\$2.4 billion is provided in state funds (including lottery funds) for the minimum foundation program (MFP), the primary means by which the state funds local school systems. Spending for the MFP accounted for 38.5% of the state's general fund budget (as contained in the General Appropriation Bill).

The majority of Louisiana's funding of elementary and secondary education is at the state level. For FY 01-02, total funding was supported 49% by the state, 38% by local school boards, and 13% by the federal government. In FY 01-02, Louisiana's total expenditure for public elementary and secondary schools of \$6,560 per pupil ranked 8th among the 16 states comprising the Southern Regional Education Board (SREB).

The average salary of a Louisiana classroom teacher in FY 01-02 was \$36,328 and ranked 14<sup>th</sup> of 16 SREB states.

Since FY 95-96, state and local pay raises have boosted Louisiana's average salary by \$9,528, which is a 35.5% growth rate, second only to North Carolina's 38.1% during that time period. The south grew by 23% in that same time span.

Louisiana's FY 01-02 average salary is presently 91.4% of the southern average. In FY 95-96, Louisiana's average salary was 83% of the southern average.

### **FY 01-02 Per Pupil Funding Comparison Using State and Local Funds**

Louisiana has narrowed the gap with SREB states in k-12 funding according to information from the National Education Association. The NEA publication *Rankings and Estimates* reports k-12 state funding per pupil in Louisiana at 95% of the SREB state funds average for FY 01-02, the most recent year for which revised data are available. In FY 95-96, Louisiana state funds per pupil were at 89% of the SREB state funds average. Local funds on a per pupil basis have also improved, going from 79% of the SREB local funds average in FY 95-96 to 86% in FY 01-02.

### **Minimum Foundation Program**

The minimum foundation program (MFP) is the primary means for state funding of public elementary and secondary education in Louisiana. There are both constitutional and statutory provisions affecting its content and administration. As noted above, appropriations for the MFP for FY 03-04 total more than \$2.5 billion – \$2.2 billion in state general funds, \$107 million in lottery funds, \$97 million in Support Education in Louisiana First (SELF) funds and \$143 million in federal funds.

### **! Background**

Prior to amendment in 1987, the constitution required the legislature to appropriate funds sufficient to insure a minimum foundation program of education in all public elementary and secondary schools. It also provided for the appropriated funds to be equitably allocated according to formulas adopted by BESE and approved by the legislature. Also prior to the 1987 amendment, the primacy of legislative authority over MFP funding amounts and reductions thereto had been judicially upheld in a 1986 case in state court.



Methods to require full funding of the MFP and protect k-12 public education from budget cuts were significant issues considered by the 1987 legislature.

In November of 1987, voters approved a proposed constitutional amendment requiring BESE to annually develop and adopt a formula to determine the cost of a minimum foundation program of education in all public elementary and secondary schools and to equitably allocate appropriated funds to the local school systems. The formula must provide for a contribution by every city and parish school system. Prior to approval of the formula by the legislature, the legislature can return the formula to BESE and recommend an amended formula for BESE consideration and resubmission. However, the legislature cannot amend the formula BESE submits. The legislature is required to fully fund, on a current basis, the costs to the state of the MFP as determined by applying the formula it has approved. Any reduction in the appropriation by either the legislature or the governor is prohibited, except by the governor in accordance with the Appropriation Act and with the written consent of two-thirds of the elected members of each house. If the legislature fails to approve the formula most recently adopted by BESE, the last formula adopted by BESE and approved by the legislature is to be used for determining the cost and allocating the funds. (*Const. Art VIII, §13(B)*)

In November of 1989, BESE (pursuant to a legislative appropriation for this purpose) contracted with a nationally recognized school finance consulting firm to study Louisiana's school finance system. At the time the study was initiated, the School Finance Advisory Council, formed by BESE in 1988, had already proposed that a new approach to school finance be developed based on a multi-level student-weighted formula. The study was to examine the components of this recommended new approach and specify the parameters necessary to implement it. Another purpose of the study was to evaluate the equity of the existing formula in order to assure a formula more equitable in its treatment of pupils and taxpayers. The overall purpose of the study, however, was to develop a new formula for the distribution of state aid to the public school systems in the state.

The study resulted in a recommendation that Louisiana replace its then resource specific finance system with a multi-level, pupil-weighted system to: (1) correct structural problems in the current system; (2) increase the decision making authority of parishes in terms of funds spent; and (3) assure that state funds are used as effectively as possible. BESE, prior to the 1991 Regular Session, adopted a new proposed MFP formula based on these study recommendations. This proposed formula, however, was not approved by the legislature.

For the 1992-1993 school year, BESE again adopted and submitted to the legislature for its approval a proposed MFP formula based on the recommendations of the board's school finance study. This formula was legislatively approved. Fifty-two of the state's school systems benefited from the first installment of new state dollars provided by the legislature to "fully fund" the formula. Fourteen "hold harmless" school systems (the ones that for reasons of equity did not benefit from the additional state dollars) received only the additional funding for the 1992-1993 school year that they would otherwise have received due to normal growth under the previous MFP formula.

The 1992-1993 MFP was student-based, recognized special costs for programs serving students in certain weighted categories, dealt with the issue of equity, and required that local school boards must assure that at least 70% of state funds are spent on instruction.

The full funding goal was not achieved until the legislature approved the MFP formula for the 1999-2000 school year. This formula achieved “full funding” which means that all of the “less wealthy” school systems due increased state funding under the formula since FY 1992-1993 received the last increment in payments necessary to fully implement the formula for such school systems. The formula also retained provisions permitting certain school systems to be “over funded”.

## **! Current Formula**

The current MFP formula (HCR No. 235 of the 2003 R.S.) generally continues, with certain technical and substantive refinements, the multi-level student-based formula concepts first adopted and approved in 1992. Level 1 is designed to provide each student with an equitably determined specific funding amount for a minimum education based on local needs. Level 2 is designed to provide an incentive for local school systems to exceed the expected levels of their contributions to Level 1 funding needs.

The current formula continues to recognize special costs (through weighted calculations) for programs serving students in certain categories. These categories are: at-risk students as defined by BESE, special education students (including gifted and talented students), vocational education course units, and economies of scale.

The formula also requires that at least 70% of a local school system’s annual general fund expenditures (which includes state MFP dollars) be spent in the area of instruction and provides for funding adjustments based on data reporting errors and audit findings.

For MFP purposes, the definition of “instruction” includes: (1) activities dealing directly with the interaction between teachers and students, including salaries, employee benefits, purchased professional and technical services, instructional materials and supplies, and instructional equipment; (2) pupil support activities designed to assess and improve the well-being of students and to supplement the teaching process; and (3) activities associated with assisting the instructional staff with the content and process of providing learning experiences for students.

Additionally, the formula specifies that 50% of a district’s increase in Level 1 and Level 2 state funds over the prior year (after adjusting for increases in student membership) shall be used for supplements and enhancements of full-time certificated staff salaries and retirement benefits.

Relative to school and district accountability, the current formula provides as follows:

- (1) Specifies that any district that includes in its October 1 membership a student who transferred from a Corrective Action II or Corrective Action III school in another district, attended the CA II or CA III school in the immediate preceding year before transferring, and transferred to an academically acceptable school in accordance with BESE accountability transfer policy will receive additional funding equal to the current year MFP state-average local share per pupil for each such student as long as the student is enrolled, limited to a maximum of three years.
- (2) Requires that a report to be submitted to the House and Senate education committees by April 1 of each year on each school with a school performance score

below the state average and annual growth of less than 5 points. Specifies that the report include information on school data, accountability data, fiscal data, student demographic data, teacher data, and staffing data.

- (3) Prohibits MFP funding for students attending a CA III school that has not met the minimum growth and does not have a BESE-approved reconstitution plan.
- (4) Prohibits MFP funding for any staff assigned to a CA III school that has not met the minimum growth and does not have a BESE-approved reconstitution plan.

### **School Finance Litigation**

The legislature, the governor, BESE, and the state Department of Education were all named defendants in a lawsuit filed in March 1992 in state district court claiming that the state had failed to appropriate sufficient funds to provide a minimum foundation of education and failed to allocate the funds appropriated for education in an equitable manner. These allegations were made in what became known as the *Charlet* lawsuit which was filed on behalf of the Orleans Parish School Board and a group of parents of students attending public school in six school systems throughout the state. Also in March 1992, the Minimum Foundation Commission, a group of 26 parish school boards, filed a separate suit making similar allegations against the same defendants. These plaintiffs were consolidated with the *Charlet* suit plaintiffs. Subsequent to the filing of these lawsuits, 13 additional parish school boards intervened and joined in the suit claiming the state had failed to appropriate sufficient funds to provide a minimum foundation of education to the students in their school systems.

In November 1999, the Louisiana Supreme Court dismissed this lawsuit. The court refused, without comment, to hear an appeal of a June 1998 decision by the state's First Circuit Court of Appeal that the suit had no merit. Plaintiffs had requested the Supreme Court to reconsider its November ruling, but in January 1999 the high court refused to do so.

During 2003, a growing number of local school boards in the state publicly discussed an intention to file suit in state court challenging whether the current minimum foundation program complies with state constitutional requirements. One reported concern involves responsibility for funding local school facilities and argues for additional state dollars. School boards have constitutional authority, within certain limits, to levy voter approved sales and property taxes targeted for facility needs. Additionally, the current MFP formula provides, under certain circumstances, additional state dollars to school systems as a financial reward for such local tax effort. All recent MFP formulas have had this provision.

### **Mandates**

There are a number of requirements in law and in administrative regulations, both state and federal, that affect the level of spending by the state and by local school systems for public elementary and secondary education. Generally, these are referred to as mandates. How to fund these mandates or whether they should be removed or modified are questions that have been raised concerning school finance.

The constitution (*Const. Art. VI, §14*) provides that (except in certain circumstances) "No law or state executive order, rule, or regulation requiring increased expenditures for any purpose shall become effective within a political subdivision until approved ... by the governing authority

of the affected political subdivision or until, and only as long as, the legislature appropriates funds for the purpose to the affected political subdivision and only to the extent and amount that such funds are provided, or until a law provides for a local source of revenue within the political subdivision for the purpose and the affected political subdivision is authorized ... to levy and collect such revenue and only to the extent and amount of such revenue.” The constitution specifically states, however, that this provision **does not** apply to a school board. Whether or not the constitution should be amended to make Article VI, Section 14 applicable to local school boards is an issue that has been before the legislature frequently in recent years.

The following considerations are pertinent to any discussion of mandates as it relates to school boards:

- ! As noted earlier in this Overview, the responsibilities of providing for the education of the people of the state and establishing and maintaining a public educational system are placed by the constitution at the state level with the legislature, not at the local level with local school boards. For this reason, the relationship between the legislature and local school boards is somewhat different from that of local governmental subdivisions such as a parish, municipality, or special district.
- ! City and parish school boards in existence at the time the constitution became effective (January 1, 1974) are recognized subject to the control and supervision of BESE and the power of the legislature to enact laws affecting them.
- ! The constitution specifies that the MFP formula shall provide for a contribution by every city and parish school system.
- ! The current MFP includes a calculation for the local contribution amount (on a statewide average, it is 35% of total funding), but there is no requirement that a local school system actually generate any specific amount in local funds in order to receive state funds. Some school systems generate more than their targeted local contribution amount, some generate less. Also, as noted earlier in this Overview, there currently is no penalty for those not hitting the target.
- ! Whether or not any particular mandate is viewed as necessary and appropriate frequently depends on the policy objective. The methods for uniformly holding schools and school systems accountable for improved student learning, conducting the state's student testing program, and having a reliable system for the collection and processing of data for comparative purposes are examples of activities thought by some to lend themselves to detailed mandates and a “top down” approach for making decisions. Conversely, activities in which “outcomes” are seen as more important than “process” and that seek to encourage flexibility and innovation may lend themselves better to a “bottom up” approach.

### **Education Quality Trust Fund**

The Louisiana Education Quality Trust Fund is a special funding mechanism benefitting specified kinds of educational programs, including some at the elementary and secondary school level. Statutory provisions were enacted in 1985 and voters approved a constitutional amendment with similar language in 1986. These actions dedicated to quality education

programs and academic research all but the first one hundred million dollars to be received from the federal government in a settlement involving the state's share of offshore mineral revenue from certain submerged federal tracts of land. This funding source has come to be known as the "8(g) money" due to a federal law reference.

Only certain recurring revenues to and investment earnings from the trust fund can be appropriated. The funds available in any one year are placed in the Quality Education Support Fund and are split evenly between BESE for all elementary and secondary educational purposes and the Board of Regents for all higher educational purposes to enhance economic development. (*Also see **Education Quality Trust Fund** under **Postsecondary Education***) For BESE to receive 8(g) money, it must submit a proposed program and budget to the legislature and governor not less than 60 days prior to the regular legislative session. The legislature is responsible for the appropriation of funds to BESE for the implementation of the proposed program.

### **8(g) EDUCATIONAL PURPOSES** **Elementary and Secondary Education**

- (1) To provide compensation to city and parish school board professional instructional employees.
- (2) To insure an adequate supply of superior textbooks, library books, equipment, and other instructional materials.
- (3) To fund exemplary programs in elementary and secondary schools designed to improve elementary and secondary student academic achievement or vocational-technical skill.
- (4) To fund carefully defined research efforts, including pilot programs, designed to improve elementary and secondary student academic achievement.
- (5) To fund school remediation programs and preschool programs.
- (6) To fund the teaching of foreign languages in elementary and secondary schools.
- (7) To fund an adequate supply of teachers by providing scholarships or stipends to prospective teachers in academic or vocational-technical areas where there is a critical teacher shortage.

Source: *Const. Art. VII, § 10.1*

BESE is permitted to allocate funds for any or all of specified elementary and secondary educational purposes. (*See accompanying list **8(g) Purposes.***)<sup>1</sup> These allocations must not displace, replace, or supplant appropriations from the general fund for elementary and secondary education, including implementing the MFP.

For Fiscal Year 2003-2004, BESE budgeted \$30.9 million in 8(g) money for elementary and secondary education.

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<sup>1</sup>In 1998, voters approved a constitutional amendment (effective July 1, 1999) which created the new Board of Supervisors of Community and Technical Colleges and removed from BESE's permitted 8(g) educational purposes, all purposes relative to postsecondary vocational-technical education and restricted such purposes to elementary and secondary education. Prior to this time, BESE's permitted purposes included providing funding for compensation of vocational-technical professional instructional employees and exemplary programs at vocational-technical schools (since vocational-technical schools were under BESE jurisdiction prior to the amendment).

**POSTSECONDARY EDUCATION GOVERNANCE**

The governance of postsecondary education in Louisiana is a responsibility shared by five constitutional boards. These are the Board of Regents, the Board of Supervisors of Louisiana State University and Agricultural and Mechanical College, the Board of Supervisors of Southern University and Agricultural and Mechanical College, the Board of Supervisors for the University of Louisiana System, and the Board of Supervisors of Community and Technical Colleges.

**Board of Regents**

The Board of Regents plans, coordinates, and exercises budgetary responsibility for all public postsecondary education. Relative to public institutions of postsecondary education, the Board of Regents has the following powers, duties, and responsibilities:

- ! Revise or eliminate existing degree programs, departments of instruction, divisions, or similar subdivisions.
- ! Approve, disapprove, or modify proposed degree programs, departments of instruction, divisions, or similar subdivisions.
- ! Study the need for and feasibility of establishing any new institution of postsecondary education which includes establishing a branch of such an institution or converting any non-degree granting institution to an institution which grants degrees or converting any college or university which is limited to offering degrees of a lower rank than baccalaureate to a college or university that offers baccalaureate degrees or merging any institution of postsecondary education into any other institution of postsecondary education, establishing a new management board and transferring a college or university from one board to another.

If the creation of a new institution, the merger of any institutions, the addition of another management board, or the transfer of an existing institution of higher education from one board to another is proposed, the board must report its written findings and recommendations to the legislature within one year. Only after the report has been filed, or after one year from the receipt of a request for a report from the legislature if no report is filed, may the legislature take affirmative action on such a proposal and then only by law enacted by two-thirds of the elected members of each house.

- ! Formulate and revise a master plan for postsecondary education, including a formula for equitable distribution of funds to postsecondary institutions.
- ! Require that each postsecondary education board submit its proposed budget to the Board of Regents for operational and capital needs for each institution under the control of each board. The board is required to submit its budget recommendations for all postsecondary institutions. Additionally, the board must recommend priorities for capital construction and improvements.

In addition to the powers and duties listed above, the constitution also requires the Board of Regents to meet with BESE at least twice a year to coordinate programs of public elementary, secondary, vocational-technical, career, and higher education. The constitution further permits the legislature to give the Board of Regents additional powers, duties, and responsibilities by law.

## EDUCATION

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All powers of management over public institutions of postsecondary education which are not given by the state constitution to the Board of Regents are reserved to the four management boards for the institutions under each board.

The constitution specifies that the Board of Regents shall be comprised of two members from each congressional district and one from the state at large. Members are appointed by the governor with Senate consent and serve overlapping six-year terms. The constitution states that the board should be representative of the state's population by race and gender to ensure diversity.

The constitution also permits and the legislature has provided for a student member on the Board of Regents. The student member is elected to the board by and from the student body presidents of the colleges and universities under the board's jurisdiction and serves for a term of one year. No student member is eligible to succeed himself. The student member has all of the privileges and rights of other board members.

A person serving on the Board of Regents, one of the four postsecondary education management boards, BESE, or a local city or parish school board is constitutionally prohibited from serving simultaneously on any of the others. Also, all members of these education boards must serve without pay. Per diem and expenses are constitutionally permitted and are provided by law. (*Const. Art. VIII, §§ 5 and 8*)

In general, private higher education institutions are not governed by the Board of Regents or any of the management boards. Some decisions by the Board of Regents may have an effect on such institutions, however, as the result of their voluntary cooperation with the board or their participation in programs funded or administered by the board, or both.

State law (*R.S. 17:1808*) requires all public and private postsecondary, academic degree-granting institutions offering instruction in Louisiana to register with the Board of Regents. Certain private institutions are exempt from these requirements, as are schools providing religious training or theological education (including sacred music) and institutions having a specified federal tax exempt status.

### **Management Boards – LSU, Southern, and University of Louisiana Systems**

Relative to the LSU and Southern boards, the constitution provides that each, subject to the constitutional powers of the Board of Regents, shall supervise and manage the institutions, statewide agricultural programs, and other programs administered, respectively by each system. Relative to the University of Louisiana System board, the constitution provides that the board, subject to the constitutional powers of the Board of Regents, shall have supervision and management of state colleges and universities not managed by a higher education board created by or under Article VIII of the Constitution of Louisiana.

The constitution specifies that each of these management boards is to be composed of two members from each congressional district and one member from the state at large, all appointed by the governor with consent of the Senate. Members serve overlapping terms of six years. As with the Board of Regents, the constitution permits and the legislature has provided for a student member on each of these management boards. A student member is selected by and from the student body presidents of the institutions governed by the respective boards, serves

for a term of one year, and is ineligible to succeed himself. A student member has all the privileges and rights of other board members. (*Const. Art. VIII, §§6, 7, and 8(B)*)

Institutions comprising the LSU system are LSU-Baton Rouge, the University of New Orleans, LSU-Eunice, LSU-Alexandria, LSU-Shreveport, the LSU Center for Agricultural Sciences and Rural Development (located in Baton Rouge), the LSU Law Center (Baton Rouge), and the LSU Health Sciences Center (New Orleans and Shreveport). (LSU-Eunice is a two-year institutions.)

Institutions comprising the Southern University System are Southern University-Baton Rouge, Southern University-New Orleans, and Southern University-Shreveport. (Southern University-Shreveport is a two-year institution.)

Institutions comprising the University of Louisiana System are Grambling State University (Grambling), Louisiana Tech University (Ruston), McNeese State University (Lake Charles), Nicholls State University (Thibodaux), the University of Louisiana at Monroe, Northwestern State University (Natchitoches), Southeastern Louisiana University (Hammond), and the University of Louisiana at Lafayette.

### **Management Board – Community and Technical College System**

In 1998, voters approved a constitutional amendment which created the Board of Supervisors of Community and Technical Colleges to supervise and manage (subject to the constitutional powers of the Board of Regents) the Louisiana Community and Technical College System. The system includes all programs of public postsecondary vocational-technical training, and, as provided by law, institutions of higher education which offer associate degrees but not baccalaureate degrees. The Louisiana Community and Technical College System is comprised of two divisions – the vocational-technical division which includes all public postsecondary vocational-technical schools, and the community college division which includes the community colleges in the system.

The constitution specifies that all public institutions which exclusively or predominantly provide programs of postsecondary vocational-technical education are under the jurisdiction of the board and such institutions may not be transferred from the Louisiana Community and Technical College System. The constitution further specifies that the provision of any program subject to the supervision and management of the board and offered at any institution under the jurisdiction of the board which is not a degree program shall require no approval beyond that of the Board of Supervisors of Community and Technical Colleges.

As provided in the constitution, the board is composed of 15 members appointed by the governor, as provided by law and subject to Senate confirmation. Of these members, two are from each congressional district with the remaining member or members from the state at large. The members serve six-year terms. In addition, the board has two student members, as provided by law. The board should be representative of the state's population by race and gender to ensure diversity. (*Const. Art. VIII, §7.1*)

The institutions managed by the system are Baton Rouge Community College, Bossier Parish Community College, Degado Community College, Louisiana Delta Community College, L.E. Fletcher Technical Community College, Elaine P. Nunez Community College, River Parishes Community College, South Louisiana Community College, and Sowela Technical Community College and all 40 campuses of the Louisiana Technical College.



### Funding

#### ! General

State general fund appropriations for postsecondary education for the current fiscal year total over \$1.038 billion. Appropriations for postsecondary education purposes, including all means of finance, total over \$2.2 billion.

The Board of Regents is currently revising the formula for equitable distribution of funds to postsecondary institutions which the constitution requires to be included in the master plan for postsecondary education.

#### ! Education Quality Trust Fund

The Louisiana Quality Education Support Fund (*also see under **Elementary and Secondary Education***) provides funds to the Board of Regents for specific higher education purposes to enhance economic development. (*See accompanying list 8(g) Purposes*)<sup>1</sup> The constitution prohibits these funds from being used to displace, replace, or supplant other funding for higher education and defines this to mean that no 8(g) appropriation can be made for any purposes for which a general fund appropriation was made in the previous year unless the total appropriations for that fiscal year from the state general fund for such purpose exceed general fund appropriations for the previous year.

For FY 03-04, the Board of Regents budgeted \$36 million in 8(g) money for higher education purposes.

#### **8(g) EDUCATIONAL PURPOSES Higher Education**

- (1) The carefully defined research efforts of public and private universities in Louisiana.
- (2) The endowment of chairs for eminent scholars.
- (3) The enhancement of the quality of academic, research, or agricultural departments or units within a community college, college, or university. These funds shall not be used for athletic purposes or programs.
- (4) The recruitment of superior graduate students.

*Source: Const. Art. VII § 10.1*

### POSTSECONDARY STUDENT FINANCIAL ASSISTANCE

Most of the publicly funded grant, loan, scholarship, and tuition assistance programs available to students pursuing a postsecondary education in the state are administered by the Louisiana Office of Student Financial Assistance (LOSFA) which is governed by the Louisiana Student Financial Assistance Commission. State and federal programs administered by LOSFA include the Rockefeller State Wildlife Scholarship, the Medical School Tuition Payment Program, the Leveraging Educational Assistance Partnership, the Stafford Loan Program, the PLUS Loan Program, and the Loan Consolidation Program.

LOSFA additionally serves as the administering agency for the state's Tuition Opportunity Program for Students (TOPS) and the TOPS-Teachers loan program. TOPS, enacted by the legislature in 1997 and first implemented with awards for the 1998-1999 academic year, is

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<sup>1</sup>*In 1998, voters approved a constitutional amendment (effective July 1, 1999) which changed purpose (3) herein to include community colleges and colleges.*

currently providing significant financial assistance to more than 40,000 Louisiana students attending eligible Louisiana postsecondary institutions. For FY 03-04, TOPS is estimated to cost \$103 million.

The TOPS Fund, a special fund constitutionally established within the Millennium Trust, receives a specified share of the state's proceeds from the "tobacco settlement" agreement and certain related interest earnings. Fund appropriations are restricted to support of state programs for financial assistance for students attending Louisiana institutions of postsecondary education. (*Const. Art. VII, Section 10.8*)

LOSFA also administers the Student Tuition Assistance and Revenue Trust Program (START), a savings plan to encourage families to save now to pay for the expenses of their children's future postsecondary education. In addition to offering participants the flexibility of saving at their own pace, START accounts earn interest which is not taxed by the state. As an incentive to save, state assistance grants are credited to qualifying accounts annually based on the amount saved and the income of the account holder. These state funded assistance grants also accrue interest. Deposits by the account holder, along with accrued interest, may be used to pay the qualifying educational expenses of the beneficiary at any accredited college or university (in or out of state), at a Louisiana technical college, or at an eligible proprietary school. Assistance grant monies, however, may be used only at in-state institutions and only for tuition.

Several tuition waiver programs also have been established by the legislature, including for members of the National Guard, students over age 55, certain disabled veterans as well as the wives, widows, and children of certain disabled or deceased veterans and POWS/MIAs, and the children of firefighters, police officers, deputy sheriffs, correctional officers, local school board employees, and sanitation workers killed or disabled in the line of duty. Certain of the waiver programs are dependent upon legislative appropriations for their respective purposes.

Additionally, under a program enacted by the legislature in 1993 and developed by the Board of Regents, full-time certified classroom teachers employed by a local school board or by a BESE-approved nonpublic school as well as Louisiana technical college instructors may enroll for college credit at a Louisiana public college or university on a tuition-free basis where space is available.

Financial assistance for postsecondary students is available from a number of public and private sources other than the state. Persons interested in assistance from these sources should contact the financial aid office of the school they seek to attend.



# STATE AND LOCAL GOVERNMENT IN LOUISIANA: AN OVERVIEW 2004-2008 TERM

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**148 Department of  
Health and Hospitals**

**156 Medicaid**

**161 State-Owned  
Medical Centers  
(Charity Hospitals)**

**161 Department of  
Social Services**

*House Legislative Services*

## Part IV. Health and Social Services

The state's health programs are administered by the Department of Health and Hospitals. Social welfare programs are administered by the Department of Social Services. Prior to reorganization legislation in the 1970s which established the Department of Health and Human Resources (DHHR), these programs were conducted by approximately sixty separate agencies and boards. DHHR was abolished in 1988 and the two separate departments were established, the Department of Health and Hospitals and the Department of Social Services.

### DEPARTMENT OF HEALTH AND HOSPITALS

The Department of Health and Hospitals (DHH) develops and provides health and medical services for the prevention of disease for the citizens of Louisiana. It also provides health and medical services for the uninsured and medically indigent directly, through the operation of health care facilities, or indirectly by agreement with the Louisiana State University Health Sciences Center. (R.S. 36:251(B)) Its \$5.98 billion budget is over 30.8% of the total state budget.

### Officers of the Department of Health and Hospitals

#### ! Secretary, Deputy Secretary, Undersecretary

Appointed by the governor with consent of the Senate, the secretary serves as the executive head and chief administrative officer of DHH. The secretary has responsibility for the policies of the department, and for the administration, control, and operation of the functions, programs, and affairs of the department, under the general control and supervision of the governor (R.S. 36:253). The secretary's powers and duties are specifically enumerated in R.S. 36:254. The

secretary may appoint a deputy secretary, subject to Senate consent. The duties and functions of the deputy secretary are determined and assigned by the secretary. If appointed, the deputy secretary serves as acting secretary in the absence of the secretary (*R.S. 36:255*). The undersecretary is appointed by the governor with Senate consent, and is responsible for the office of management and finance within the department, subject to the overall direction and control of the secretary. (*R.S. 36:256*)

**Mandatory Duties.** In addition to the standard duties of a department secretary related to rulemaking, planning, budgeting, and hearing appeals, the secretary is responsible for:

- Acting as the sole agent of the state to cooperate with the federal government and other state and local agencies and in the administration of federal funds in furtherance of department function, including Medicaid and the Louisiana Children's Health Insurance Program (LaCHIP); and taking actions necessary to meet federal standards.
- Certifying of emergency medical services.
- Providing adult protective services to disabled adults.
- Providing targeted health care programs in priority health care zones to lower infant mortality, teenage pregnancy, and substance abuse, if federal funds are available.
- Developing and implementing targeted programs to enhance basic care facilities and comprehensive regional treatment centers, if federal funds are available.
- Allocating funding for residency positions, residency supervision, and other medical education resources among institutions which provide medical education at hospitals in the health care services division of the Louisiana State University Health Sciences Center. (*R.S. 36:254*)

**Licensing.** The secretary is also responsible for licensing of:

- Health related professionals (See Licensing Agencies within the Department of Health and Hospitals below).
- Health facilities including hospitals and nursing homes.
- Institutions for persons with mental retardation.
- Systems of distribution for controlled dangerous substances.
- Child care institutions funded under Title XIX of the Social Security Act.
- Any required certification for Medicare or Medicaid funding. (*R.S. 36:254*)

**Permissive functions.** The secretary has authority to:

- Act as legal custodian of any child placed with the department by court of law.

- Grant rights of way, servitudes, and easements across state-owned land under his jurisdiction to other state or local public bodies for any public purpose.
- Adopt and promulgate rules and regulations providing for certification of laboratories providing chemical analysis, analytical results, or other appropriate test data to the department.
- Assign the function of diagnosis and case management of alcohol and drug abusers, the mentally retarded, the developmentally disabled, and the autistic to the appropriate department office or level of government. (R.S. 36:254)

**Responsibility for Medicaid.** The secretary directs and is responsible for the Medical Assistance Program (Title XIX of the Social Security Act), also known as “Medicaid”, including eligibility determination and health planning and resource development functions. The secretary may enter into interagency agreements for the performance of eligibility determination services for the Medical Assistance Program. (*See further discussion below under Medicaid.*)

## **! Assistant Secretaries**

Each office, except the office of management and finance, is under the immediate supervision and direction of an assistant secretary appointed by the governor with consent of the Senate, with duties and functions determined by the secretary. Assistant secretaries perform under the direct supervision and control of the secretary. (R.S. 36:257)

## **Offices**

### **! Office of Management and Finance**

Directed by the undersecretary, the office of management and finance is responsible for the accounting and budget control, procurement and contract management, data processing, management and program analysis, personnel management, and facility construction and consulting services for the department and all of its offices. (R.S. 36:256(B))

### **! Office of Public Health**

The office of public health performs the functions of the state which relate to the general health of its citizens. The office prepares and supervises the Sanitary Code, local health units, sewerage treatment and disposal, physical fitness, supplemental food programs for women, infants, and children (WIC), and emergency medical services. The office performs the functions of the state related to treatment and disposal of sewerage, except those assigned to the Department of Environmental Quality. (R.S. 36:258(B))

The functions of the office are allocated to six centers: administrative and technical support, center for community health, center for environmental health, center for health policy, information and promotion, center for preventive health, and human resources.

**Center for Environmental Health.** The purpose of the environmental health services program is to promote control of and a reduction in acute and chronic diseases caused by unsafe environmental conditions through the Sanitary Code. The office conducts

inspection of public and private entities for compliance with the code. Components of the center for environmental health include:

- C Drinking Water Revolving Loan Fund
- C Engineering Services
  - Operator Certification
  - Public Health Engineering
  - Safe Drinking Water Program
- C Environmental Epidemiology & Toxicology
- C Sanitarian Services
  - Beach Monitoring Program
  - Building and Premises Program
  - Commercial Seafood Program
  - Disease Vector Control Program
  - Food and Drug Program
  - Infectious Waste Program
  - Milk and Dairy Control Program
  - Molluscan Shellfish Program
  - Onsite Wastewater Program
  - Retail Food Program

**Center for Health Policy, Information & Promotion.** The purpose of the center for health policy, information and promotion is to provide accurate and comprehensive health statistics and health information. The center also plays a vital role in assuring the state's capacity to deliver an appropriate and responsive epidemiology, surveillance, and public health laboratory system. Components of the center for health policy, information and promotion include:

- C Chronic Disease Program
  - Behavioral Risk Factor Surveillance System (BRFSS)
  - Cardiovascular Health Program
  - Diabetes Program
  - Tobacco Control Program
- C Health Communications
  - Health Behavior Change and Social Marketing
  - Public and Press Relations
- C Infectious Disease Epidemiology Program
  - Bioterrorism
- C Laboratory Services
- C Policy, Planning and Evaluation
  - Grant Management
  - Performance Accountability System
  - Policy Development and Issuance
  - Strategic Planning
- C Program Evaluation
- C Records and Statistics
  - State Center for Health Statistics
  - Vital Records Registry
- C State Epidemiologist

**Center for Preventive Health.** The purpose of the center for preventive health is to maximize the potential to avert personal health problems including actions that reduce susceptibility or exposure to health threats, detecting and treating diseases in early stages, and alleviating the effects of disease and injury. Components of the center for preventive health include:

- C Adolescent School Health Initiative - School-Based Health Centers
- C Children's Special Health Services (CSHS)
  - Early Steps
  - Hearing, Speech and Vision Program
  - Louisiana Birth Defects Monitoring Network
  - Parent Support Program
- C Family Planning
  - Adolescent Health Initiative
  - Reproductive Health Training Program
- C Genetic Diseases
  - Childhood Lead Poisoning Prevention Program (LACLPPP)
  - Genetics Clinical Services
  - Hemophilia Program
  - Newborn Screening and Follow-up
- C HIV/AIDS Program
- C Immunization Program
  - Hepatitis Program
  - Infant Immunization Initiative Project
  - Influenza Immunization Surveillance Program
  - LA Immunization Network for Kids Statewide
  - Vaccines For Children Program
- C Maternal & Child Health
  - Epidemiology, Assessment, & Evaluation (EAE) Program
  - Healthy Families LA Paraprofessional Home Visiting Programs
  - Louisiana Children's Health Insurance Program (LACHIP)
  - Nurse-Family Partnership (Nurse Home Visiting)
  - Oral Health
  - Partners for Healthy Babies
  - Pregnancy Risk Assessment Monitoring System (LA-PRAMS)
  - Sudden Infant Death Syndrome (SIDS)
- C Nutrition
  - The LA Commodity Supplemental Food Program (CSFP)
  - The Special Supplemental Nutrition Program for WIC
- C Sexually Transmitted Diseases (STDs)
- C Tuberculosis Control Program
- C Women's Preventive Health Program

**Vital Records and Statistics.** The vital records and statistics program collects, transcribes, compiles, analyzes, reports, preserves, amends and issues vital records including birth, death, fetal death, stillbirth, abortion, marriage, and divorce certificates. The program also operates the Louisiana Putative Father Registry, the Orleans Marriage License Office, and records all adoptions, legitimations, and other judicial edicts that affect the state's vital records. For marriage records for parishes other than Orleans, contact the office of the clerk for that parish. The program also provides population based vital event



and health information data that serves as the planning base for health assessment activities, health resources allocation and the targeting of health intervention projects or programs through the State Center for Health Statistics.

### ! Office of Mental Health

**Functions.** The office of mental health performs the functions of the state which provide services and continuity of care for the prevention, detection, treatment, rehabilitation, and follow-up care of mental and emotional illness, and functions related to mental health. The office administers residential and outpatient care facilities for persons with mental illness and developmental disabilities. (*R.S. 36:258(C)*)

**Program Purpose/Components.** The purpose of the mental health services program is to provide a community based mental health care system for seriously mentally ill adults and seriously emotionally disturbed children and adolescents. Components of the mental health services program include:

- Community mental health clinics
- Day/psychosocial rehabilitation treatment programs
- Hospital Acute Inpatient Psychiatric Units
- Community and family support programs
- Pharmacy services
- Telephone crises lines

### ! Office for Citizens with Developmental Disabilities (OCDD)

**Functions.** The office for citizens with developmental disabilities is responsible for programs and functions relating to the care, training, treatment, and education of the mentally retarded, developmentally disabled, and the autistic. It is also administers residential and day care facilities for the mentally retarded and developmentally disabled. (*R.S. 36:258(D)*)

**Program Purpose/Components.** OCDD administers a service system that supports and serves individuals with developmental disabilities through residential living options, and community based and residential facilities for individuals with developmental disabilities. Services include:

- Vocational and habilitative services, or employment, including mobile crews, enclaves, and individual jobs in the community with long-term support, and as sheltered work.
- Case management.
- Cash subsidy payments to families to offset the extraordinary cost of services and equipment.
- Early intervention services to infants and toddlers (age 0 to 36 months) with developmental disabilities, such as home visits, speech therapy, physical therapy, social services, special education, nursing services, transportation, and psychological services.
- Individual and family support – financial assistance to assist in meeting the needs of an individual with developmental disabilities at home. Eligible services include special

equipment, supplies, special clothing, medical expenses, medication, counseling, respite, personal care attendant, family training, and vehicle and home modifications.

- Respite care services.
- Extended family living.
- Residential placement.

## **! Office of Addictive Disorders**

**Functions.** The office for addictive disorders, known prior to the 1999 Regular Session as the office of alcohol and drug abuse or the office of substance abuse is responsible for the functions of the state relating to the care, training, treatment, and education of those suffering from addictive disorders and the prevention of addictive disorders. The office of mental health administers the residential and outpatient care facilities of the state for patients suffering from addictive disorders and administers the state's addictive disorder programs. The office also provides a twenty-four-hour, toll-free telephone service to provide information regarding available services to assist with compulsive or problem gambling behavior. (*R.S. 36:258(E)*)

**Program Purpose/Components.** The purpose of the substance abuse prevention and treatment services program is to provide prevention and treatment for alcoholism and drug abuse. The office operates outpatient clinic facilities for the prevention and treatment of alcoholism and drug abuse on an outpatient basis, and inpatient residential treatment facilities. The office also coordinates activities of all state departments' substance abuse prevention and treatment activities, has established an employee assistance program for public and private employers to address substance abuse issues, and publishes data on substance abuse within the state.

## **Jefferson Parish Human Services Authority**

The Jefferson Parish Human Services Authority was created in 1989 to perform the functions relative to the operation and management of mental health, mental retardation, and substance abuse services for Jefferson Parish only. The functions of the authority include services and continuation of care for the prevention, detection, treatment, rehabilitation, and follow-up care of mental illness in the parish and administration of residential and outpatient care facilities of the parish for persons who are mentally ill. The authority is also responsible for the programs and functions of the state relating to the care, training, treatment, and education of the mentally retarded, the developmentally disabled, the autistic, and alcohol and drug abusers. Further, the authority administers residential and outpatient care facilities of the parish for alcohol and drug abuse patients and administers the alcohol and drug abuse programs in the parish. (*R.S. 36:258(F)*)

## **Capital Area Human Services District**

The Capital Area Human Services District was created in 1996 to perform the functions relative to the operation and management of mental health, mental retardation, and substance abuse services in Ascension, East Baton Rouge, Iberville, Pointe Coupee, and West Baton Rouge parishes. The district is governed by appointments from the governing authority of each of the parishes in the district. By agreement with DHH, the district also

provides the services for the remainder of administrative region 2, including East Feliciana and West Feliciana parishes. (R.S. 36:258(G))

### **Florida Parishes Human Services Authority**

The Florida Parish Human Services Authority was created in 2003 to perform the functions relative to the operation and management of community-based mental health, developmental disabilities, and addictive disorder services for the parishes of Livingston, St. Helena, St. Tammany, Tangipahoa, and Washington. The district is governed by a nine-member board appointed by the governing authorities of the parishes subject to ratification by the legislative delegation representing the five parishes within the authority. (R.S. 36:258(H))

### **Metropolitan Human Services District**

The Metropolitan Human Services District was created in 2003 to perform the functions relative to the operation and management of community-based mental health, developmental disabilities, and addictive disorder services for the parishes of Orleans, St. Bernard, and Plaquemines. The district is governed by a nine-member board appointed by the chief executive officer of each respective parish subject to the respective parish governing authorities. (R.S. 36:258(I))

## **Licensing Agencies within the Department of Health and Hospitals**

In addition to the licensing functions of the DHH secretary (*see secretary above*), a large number of agencies in DHH are charged with responsibility for the regulation, examination, certification,

### **Licensing Agencies In Department of Health and Hospitals**

Chiropractic Examiners, La. Board of  
Counselors Board of Examiners, La. Licensed Professional  
Dentistry, La. State Board of  
Dietetics and Nutrition, La. State Board of Examiners in  
Electrolysis Examiners, State Board of  
Embalmers and Funeral Directors, La. State Board of  
Hearing Aid Dealers, La. Board for  
Massage Therapy, La. Board of  
Medical Examiners, La. State Board of  
Nursing, La. State Board of  
Nursing Facility Administrators, Board of Examiners for  
Optometry Examiners, La. State Board of  
Pharmacy, La. Board of  
Physical Therapy Examiners, La. State Board of  
Practical Nurse Examiners, La. State Board of  
Psychologists, State Board of Examiners for  
Radiologic Technology Board of Examiners  
Sanitarians, La. State Board of Examiners for  
Social Work Examiners, La. State Board of  
Speech-Language Pathology and Audiology, La. Board of Examiners for  
Substance Abuse Counselors, La. State Board of Certification for  
Veterinary Medicine, La. Board of  
Vocational Rehabilitation Counselors Board of Examiners,  
La. Licensed Professional  
Wholesale Drug Distributors, La. Board of

and/or licensing of various health care-related occupations and professions in the state and the enforcement of laws related thereto. Rules and regulations promulgated by these agencies are subject to review (legislative oversight) by the House Committee on Health and Welfare and the Senate Committee on Health and Welfare.

## **MEDICAID**

### **Purpose/Procedure**

Title XIX of the Social Security Act was enacted by Congress in 1965 to provide grants to states for medical assistance programs referred to as “Medicaid”. Medicaid was established for three specific purposes:

- (1) To finance health care for selected groups of individuals who could not otherwise afford adequate care.
- (2) To shift the delivery of much of this care from public hospitals to private hospitals, physicians, and other providers in the private sector.
- (3) To extend this coverage to include in the future all individuals who could be identified as medically indigent.

In contrast to “Medicare” (Title XVIII of the Social Security Act), which is a federal insurance program serving primarily those over age 65, Medicaid is a federal and state medical assistance program for low-income people of every age. Each state has some discretion in determining eligibility standards, in determining the type, amount, duration, and scope of services, and determining the rate of payment for services. However, the amount, duration, and scope of each service must be sufficient to reasonably achieve its purpose. With certain exceptions, a state’s Medicaid plan must allow recipients freedom of choice among health care providers participating in Medicaid.

Eligible persons enrolled in the Medicaid program receive a card to present to qualified health care providers indicating that the cost of covered services to the individual will be paid directly to the provider with Medicaid funds by the state administrators of the program. There is no charge or reimbursement directly to the patient. The cost of Medicaid services is shared by federal and state government in ratios that are set for each state based upon the relationship between a state’s per capita income and national per capita income. Minimum federal sharing is 50% and the highest is about 77%. The formula moves, with a lag, to reflect the changing economic fortunes of the states. Currently in Louisiana, the federal government provides approximately 75¢<sup>1</sup> of every dollar expended in Medicaid funds. There are roughly 990,000 Medicaid recipients in Louisiana, of which about 60% are children.

### **Eligibility**

Federal law sets the minimum provisions for any state that opts to administer a Medicaid program. Federal requirements mandate that all of the following are eligible for Medicaid:

- Low income families with children who meet the old guidelines for Aid to Families with Dependent Children (AFDC).

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<sup>1</sup>*This includes the 2.9% relief match adjustments for FY 2003/2004 only.*

## HEALTH AND SOCIAL SERVICES

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- Recipients of Supplemental Security Income (SSI) for the blind, aged, and disabled.
- Infants born to Medicaid-eligible pregnant women through the first year of the infant's life (if the woman would be eligible if she were pregnant).
- Children under age 19 and pregnant women whose family income is at or below 200% of the federal poverty level. For 2003, the federal poverty level for a family of four was \$18,400.
- Recipients of adoption assistance and foster care under Title IV-E of the Social Security Act.

An additional optional category provided for in Louisiana is “medically needy”, those who become eligible for coverage when they “spend down” their resources as a consequence of their illness. Over 20% of the state's population is eligible for Medicaid services.

### ! Covered Services

Federal law requires generally that services provided by the states include inpatient and outpatient hospital and physician services, laboratory and X-ray services, nursing home care, home health care, and family planning. States may also provide for numerous optional items of coverage such as drugs, intermediate care facility services, eyeglasses, inpatient psychiatric care, physical therapy, prenatal care, prosthetic services, and dental care.

In Louisiana, the Medicaid program is administered as the “Medical Vendor Payments Program” by the Bureau of Health Services Financing within the office of the secretary of DHH. The services provided include:

- *Hospital services:* inpatient, outpatient, and emergency room visits.
- *Physician services:* visits in response to symptoms or diagnosed medical conditions indicating illness, injury, or trauma. Only recipients under age 21 are eligible for “well-care” visits under the Early Periodic Screening, Diagnosis and Treatment program for children (EPSDT).
- *Clinic services:* rural health, family planning, mental health, substance abuse, prenatal, sexually transmitted disease, and tuberculosis clinic services.
- *Laboratory and X-ray services:* medically necessary tests and X-rays. Tests and X-rays taken as a routine procedure are not covered.
- *Long-term care services:* residential care in a nursing facility.
- *Home and community-based services:* alternative services to institutional care, provided to limited numbers under waiver.
- *Home health services:* part-time skilled nursing services, home health aide services, and physical therapy are provided in the recipient's home.

- *Prescribed medication:* most prescribed drugs are covered. Cosmetic drugs, cough and cold preparations, diet aids and fertility drugs are not covered.
- *Transportation:* pre-authorized trips to obtain medical care. Transportation to and from a pharmacy is not covered.
- *Dental services:* services for recipients over age 21 are limited to dentures, denture relines and denture repairs. Examination is covered if in conjunction with denture construction. A full range of dental services are covered for recipients under age 21 in accordance with an approved treatment plan.
- *Eye care services:* eye care for treatment of eye conditions, injury, or disease is covered for recipients over age 21 as a physician or hospital service. Routine eye exams and eyeglasses are covered for recipients under age 21.
- *Rehabilitation services:* prior authorized speech, language, hearing, physical, and/or occupational therapy by a rehabilitation center or outpatient hospital department is covered.
- *Psychiatric institutions:* covers mental hospital services for recipients if pre-authorized.
- *Durable medical equipment:* covered medical equipment, appliances, and medical supplies are provided with prior approval.
- *Early and Periodic Screening, Diagnosis and Treatment (EPSDT) services:* provided to recipients under age 21. These recipients are sought out and notified of preventive health care available to them, such as eye, dental, hearing, and rehabilitative services.

These services are financed through the state general fund, self-generated revenues statutory dedications, interagency transfers, and federal funds, with the federal portion approximating 75¢<sup>1</sup> of each dollar expended for provider payments. The total amount of resources allocated for Medicaid in Louisiana in FY 2003/2004 is approximately \$5.01 billion, 25.8% of the state budget.

### **Disproportionate Share/ Uncompensated care costs**

Beginning in FY 1988-89, disproportionate share payments were used to fund growth in the program due to increased medical costs and additional groups made eligible for Medicaid by federal mandate. Disproportionate share payments were additional Medicaid dollars provided to hospitals that primarily served Medicaid recipients and the medically indigent. Due to the large number of Medicaid recipients and medically indigent persons served in the state hospital system, disproportionate share payments were made to the hospitals generating “overcollections” or revenues above the costs of providing services. These overcollections were turned over to the state, where these overcollections were used to provide part of the state Medicaid match. Changes in federal law now prohibit disproportionate share payments to be used to generate a surplus. Due to the federal changes, disproportionate share payments to the state dropped from \$1.2 billion in FY 1994/95 to an estimated \$650 million in FY 1995/96. The resources allocated for Medicaid provider payments were reduced from \$4.2 billion in FY

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<sup>1</sup>This includes the 2.9% relief match adjustments for FY 2003/2004 only.

## **HEALTH AND SOCIAL SERVICES**

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1994/95 to \$3.127 billion in FY 1995/96. Beginning in July of 1995, the Department of Health and Hospitals began issuing a series of emergency rules and implemented various programs to reduce state Medicaid expenditures. Since FY 1995/96, there has been substantial growth in the Medicaid program. Much of this growth is due to expanded enrollment of children resulting from the LaChip outreach effort. Medicaid provider payments for FY 2003/2004 are budgeted at \$4.84 billion. This includes some \$347 million that is paid for financing purposes only.

### **Waivers**

Federal law requires each state with a Medicaid program to follow certain guidelines in services offered, eligibility criteria, and access to care. The law provides that certain requirements may be waived in order to improve quality of care. Many states have sought and received waivers to allow the state to restrict Medicaid recipients' freedom to choose any health care provider for services in order to provide for managed care or to require that an individual receive a referral from a primary care provider before seeing a specialist. CommunityCARE currently operates statewide. The primary care physician manages the care of the enrollee by providing education, preventive care, acute care and referrals to specialists. A primary physician is paid a flat fee to serve as a "medical home" for an individual. That individual must receive a referral from the primary care physician prior to receiving specialty care.

The state has several waivers to provide home and community based care services to provide long-term care services to people who otherwise would require institutionalization. The number of available waiver slots is limited, either by federal mandate or by state funding limitations, and there are waiting lists for the programs. The waiver programs include:

- Elderly and Disabled Adults
- Mental Retardation/ Developmental Disabilities
- Adult Day Health Care
- Personal Care Attendant
- Children's Choice

### **LaCHIP**

The federal Balanced Budget Act of 1997 amended the Social Security Act to create a new program for providing medical coverage for low-income, uninsured children under the age of 19 called the State Children's Health Insurance Program. The federal government pays 79.9% of every dollar spent in the program in Louisiana. States are authorized to provide expanded Medicaid coverage, private health insurance, or a combination of the two. Act No. 128 of the 1998 First Extraordinary Session provided that the program, subject to appropriation, expand Medicaid coverage to all children in families with income below 133% of the federal poverty level. Act No. 1197 of the 1999 Regular Session authorized expanded Medicaid and LaChip coverage to 200% of the federal poverty level for children up to age 19, subject to available funding. Medicaid began coverage for children at this level in FY 2001/2002. Coverage again expanded to include pregnant women up to 200% of federal poverty level in FY 2002/2003. Legislative committees, DHH, the Department of Insurance, and the Children's Health Insurance Program Task Force shall determine whether the coverage will be Medicaid expansion or private health insurance.

**STATE-OWNED MEDICAL CENTERS (CHARITY HOSPITALS)****Medical Centers**

Each year, an estimated one in five Louisianans receives health care services at one of the state's public medical centers. Act No. 3 of the 1997 Regular Session transferred the nine state medical centers operated by the Louisiana Health Care Authority to the newly created Health Care Services Division of the LSU Health Sciences Center (formerly the LSU Medical Center). LSU Health Sciences Center has operated the state medical center in Shreveport since 1976.

Act No. 906 of the 2003 Regular Session gave greater autonomy to the LSU - Health Care Services Division to manage the finances and daily operations of the nine state medical centers. Legislative approval is required only if LSU - HCSD plans to reduce hospital spending by more than 35% of the previous year's actual expenses. This legislation transferred the management of E.A. Conway Medical Center in Monroe to LSUHSC - Shreveport. The remaining eight HCSD medical centers continue management under LSUHSC - New Orleans: Medical Center of La. in New Orleans, Earl K. Long Medical Center in Baton Rouge, Huey P. Long Medical Center in Pineville, University Medical Center in Lafayette, Leonard J. Chabert Medical Center in Lake Charles, Bogalusa Medical Center, W.O. Moss Regional Medical Center in Lake Charles, and Lallie Kemp Regional Medical Center in Independence.

The medical centers provide acute general medical, surgical, and psychiatric care to the medically indigent, uninsured, Medicare or Medicaid covered patients and self-paying patients. The hospitals also provide training for physicians, nurses, and allied professional in affiliation with the state university medical schools and other health care professional educational institutions within the state.

**DEPARTMENT OF SOCIAL SERVICES****I Secretary, Deputy Secretary, Undersecretary**

Appointed by the governor with consent of the Senate, the secretary serves as the executive head and chief administrative officer of DSS. The secretary has responsibility for the policies of the department, and for the administration, control, and operation of the functions, programs, and affairs of the department, under the general control and supervision of the governor. The secretary's powers and duties are specifically enumerated in R.S. 36:473. The secretary may appoint a deputy secretary, subject to Senate consent. The duties and functions of the deputy secretary are determined and assigned by the secretary. If appointed, the deputy secretary serves as acting secretary in the absence of the secretary (*R.S. 36:475*). The undersecretary is appointed by the governor with Senate consent, and is responsible for the office of management and finance within the department, subject to the overall direction and control of the secretary. (*R.S. 36:475.1*)

**Mandatory Duties.** In addition to the duties traditionally provided to a department secretary related to rulemaking, planning, budgeting, and hearing appeals, the secretary is responsible for:

- The functions of the state relating to licensing of child care institutions which do not receive funds under Title XIX of the Social Security Act and day care centers and agencies.



- The state plan for participation in the Child Care and Development Block Grant Program and the Title IV-A federal program to assist families at risk of welfare dependency. (R.S. 36:474(A))

**Permissive functions.** The secretary has authority to:

- Act as legal custodian of any child placed with the department by court of law.
- Grant rights of way, servitudes, and easements across state-owned land under his jurisdiction to other state or local public bodies for any public purpose. (R.S. 36:474(B))

### ! Assistant Secretaries

Each office, except the office of management and finance, is under the immediate supervision and direction of an assistant secretary appointed by the governor with consent of the Senate, with duties and functions determined by the secretary. Assistant secretaries perform under the direct supervision and control of the secretary. (R.S. 36:476).

## Offices

### ! Executive Office of the Secretary

The executive office of the secretary includes the staff who assist the secretary in performance of his duties and functions. Louisiana Rehabilitation Services and licensing functions are also placed within the office of the secretary.

**Louisiana Rehabilitation Services.** This program assists persons with disabilities in their desire to obtain or maintain employment and/or independence in their community by providing rehabilitation services and working cooperatively with business and other community services.

**Licensing.** All child care facilities, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency, are required to be licensed. Licenses are of two types: Class A and Class B. (R.S. 46:1404)

Class A licenses are issued upon the establishment of the fact that minimum requirements for a license as established by the department are met and that the facility or agency is in compliance with all other state and local laws and regulations. (R.S. 46:1408). The regulations are promulgated by the department pursuant to the Administrative Procedure Act (APA) after submission to the Louisiana Advisory Committee on Licensing of Child Care Facilities and Child Placing Agencies for official review and approval. (R.S. 46:1407)

Class B licenses are issued to all child care facilities which have not applied for a Class A license which have provided the department with the required registration information. (R.S. 46:1412) The regulations are promulgated by the Louisiana Committee on Private Child Care in accordance with the APA, with specific rules and regulations with which Class B facilities are required to comply, including fire and safety standards promulgated by the office of state fire protection and the state fire marshal, health and sanitation standards promulgated by the office of public health, local zoning ordinances and building standards, and laws against child abuse. (R.S. 46:1413)

**! Office of Management and Finance**

Directed by the undersecretary, the office of management and finance is responsible for the accounting and budget control, procurement and contract management, data processing, management and program analysis, personnel management, grants management, facility construction and consulting services, and policy planning and evaluation for the department and all of its offices. (R.S. 36:475.1)

**! Office of Family Support**

The office of family support administers public assistance programs to provide aid to dependent children and to adults, who, due to age, disability, or infirmity, are unable to adequately meet their basic needs. Other programs administered by the office of family support include food stamps, child support, establishment of paternity, disaster relief grants program for individuals and families, and disability and certain other eligibility determinations. The office may contract with other state agencies for eligibility determinations. (R.S. 36:477(B))

**Family Independence Temporary Assistance Program (FITAP)**

The Family Independence Temporary Assistance Program (FITAP) is the state's cash assistance program for families with children when the financial resources of the family are insufficient to meet subsistence needs. It succeeded the Aid to Families with Dependent Children (AFDC) program, with changes required under the state Welfare Reform Act of 1995 and the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). State law established a twenty-four month limit on benefits in a five-year period, while federal law provided a limitation of sixty months of lifetime benefits.

According to R.S. 46:236.1, when an applicant accepts FITAP, all support rights are then assigned to the state.

**Family Independence Work Program (FIND Work)**

FIND Work is the successor to Project Independence. Project Independence was part of the federal mandate of the Family Support Act of 1988 that all states implement a JOBS training program by October 1, 1990. FIND Work assists recipients of FITAP to prepare for and obtain employment by completing or participating in work activities. All recipients of FITAP must participate in FIND Work except children under the age of 18 and single parents caring for a child under the age of one.

The PRWORA of 1996, its successor, provides block grants for the states. Both federal laws have mandated an increase in the percentage of cash assistance for recipients participating in the work program, from 7% in 1990 to 40% in 1999 to 50% in 2002.

**Food Stamps**

The food stamp program was established by congress in 1964 and congress has amended the legislation a number of times. The goals of the program are to promote general welfare, to safeguard the health and well-being of the population by raising levels of nutrition among low-income households through certification and issuance of food

coupons to all eligible households, and to promote the distribution of agricultural products which will strengthen the nation's agricultural economy, as well as result in more orderly marketing and distribution of foods. Food stamps are 100% federally funded, while some administrative costs are 50% federal and 50% state.

The program is administered at the national level by the United States Department of Agriculture-Food and Nutrition Service. On a state level, the Department of Social Services, office of family support, food stamp section is responsible for the statewide administration of certification, issuance, and employment and training provisions of the law. Household eligibility is determined by the office of family support staff in each parish of the state. (*Also see **Electronic Benefits Transfer** below*)

### **Child Support Enforcement**

Louisiana has had an ongoing child support enforcement program since 1952. This program was enhanced by federal expansions in 1975, 1984, 1993, and the PRWORA of 1996. The PRWORA included provisions to ensure that more children have paternity and child support orders established and receive financial support to cover their basic needs.

Any person receiving FITAP or Medicaid automatically receives child support enforcement services and assigns their support rights to the state. If a person does not receive FITAP or Medicaid, they may apply for support enforcement services and pay an application fee of \$25.00. Support enforcement works with all 50 states as well as some foreign countries to provide child support services.

### **Disability Determination**

The disability determination services program within the office of family support makes disability decisions under Titles II (Disability Insurance Benefits) and XVI (Supplementary Security Income) of the Social Security Act. The Social Security Act defines disability as the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. It secures information relative to work history sources, arranges for consultative examination and vocational testing, and prepares the disability determination. Consideration is also given to whether the applicant is potentially suitable for rehabilitation services. All disability benefits and administrative costs of operating the program are 100% federally funded.

### **Child Care Assistance Program**

Under the PRWORA of 1996, several federal grants to provide support for child care for welfare recipients training or becoming part of the workforce were consolidated into the Child Care Development Block Grant, which must be matched with state dollars. States must use at least 70% of the funds to provide child care assistance to welfare recipients, to those in work programs and attempting to leave welfare, and those at-risk of going on welfare. In Louisiana, this is done by providing child day care grants directly to the caregivers for eligible children, including Class "A" child day care centers, school-based before and after school programs, registered family child day care homes, and in-home providers. The average grant amount is \$176 per month. The amount paid is based upon

the number of hours the adults work, household size, household income, and the number of hours the child is in care.

### **Electronic Benefits Transfer (EBT)**

Prior to the implementation of the electronic benefits transfer, monthly checks were sent to FITAP recipients and food stamp recipients received books of coupons which were redeemed to purchase eligible food items. Under the electronic benefits system, food stamp and FITAP recipients are given the equivalent of debit cards (called a Louisiana Purchase card) and select personal identification numbers (PINs). As purchases or cash withdrawals are made at the grocery store checkout lanes and ATMs, recipient accounts are debited electronically and the recipient is provided a receipt of the transaction which includes the remaining balance in the account(s). After the initial six-month pilot in Natchitoches Parish, the Louisiana Legislature authorized statewide expansion of EBT to begin in July 1997. The final phase of EBT roll out was implemented in December 1997. Federal direct payments such as Supplemental Security Income (SSI) may also be added to the Louisiana EBT system in the future.

### **Kinship Care Subsidy Program**

The Kinship Care Subsidy Program is Louisiana's public assistance program which provides cash assistance for eligible children who reside with qualified relatives other than parents. The program is funded by Louisiana's Temporary Assistance to Needy Families Block Grant. The program furnishes cash assistance of \$222 per month per eligible child who resides with a qualified relative other than a parent, including a grandparent, aunt, uncle, brother, sister, first cousin, niece, nephew, stepbrother, or stepsister.

## **! Office of Community Services**

The office of community services provides comprehensive social services programs to children and families, including but not limited to protective services, foster care, emergency day care, and adoption. (R.S. 36:477(C)).

### **Foster Care**

This program provides protective services to children in custody of DSS who are unable to live with their parents or relatives and who require maintenance outside of their normal home environment as a result of abuse, neglect, or some other circumstances. It provides substitute, temporary care (e.g. foster family home, group home, residential care facility, etc.) for a planned period of time when a child must be separated from his own parents or relatives. Foster care is viewed as an interim process to provide care for a child until he is reunited with his family or is provided with another type of permanent living situation. The program also includes social services to the child, his biological family, and the foster care provider.

### **Adoption**

The office of community support provides adoption services for placement of children in DSS custody who are available for adoption. This involves such components as the study of applicant families and approval of adoptive homes, matching children and

families, locating homes, providing counseling to children and adoptive parents (before, during and after placement), and in some cases, subsidy payments to the adoptive parents.

The office also performs adoptive petition services. This includes staff investigation of independent adoptions by certain family members (stepparent, grandparent, etc.) to determine the availability of the child and suitability of the adoptive home. Reports are made to the courts on these investigations. The staff also secures necessary reports for the courts on adoptive placements by public and private licensed adoption agencies.

### **Child Protection Investigations**

Investigation of child abuse or exploitation reports that meet agency criteria are conducted. Action is taken in validated cases, such as emergency services, removal of the child or the perpetrator from the home through emergency court order, filing a petition for court-ordered services, or referring the family for family services.

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## Part V. Transportation and Infrastructure

### DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

#### Overview

The Department of Transportation and Development (DOTD) is charged with the responsibility for developing and implementing programs to assure adequate, safe, and efficient transportation and other public works facilities and services. The department is composed of the executive office of the secretary, the office of management and finance, the office of highways, the office of planning and programming, the office of operations, the office of public works and intermodal transportation, and such other offices as shall be created by law.

#### Offices

##### ! Office of the Secretary

The executive office of the secretary is administered by the secretary of DOTD. The secretary is responsible for the policies of the department and for the administration, control, and operations of the functions, programs, and affairs of the department. The secretary has the authority to appoint a deputy secretary to assist the secretary in his duties.

##### ! Office of Management and Finance

The office of management and finance is under the direction of the undersecretary. Among the responsibilities of this office are the following: accounting and budget control, procurement, and employment, removal, and promotion of personnel.

### ! Office of Highways

The office of highways administers engineering matters related to the state's highway program, with respect to project development, construction, maintenance, and regulation

#### DOTD DISTRICTS

**District 2:** Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, Terrebonne

**District 3:** Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, Vermilion

**District 4:** Bossier, Bienville, Caddo, Claiborne, DeSoto, Red River, Webster

**District 5:** East Carroll, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Union, West Carroll

**District 7:** Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis

**District 8:** Avoyelles, Grant, Natchitoches, Rapides, Sabine, Vernon, Winn

**District 58:** Caldwell, Catahoula, Concordia, Franklin, LaSalle, Tensas

**District 61:** Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. James, West Baton Rouge, West Feliciana

**District 62:** Livingston, St. Helena, St. John the Baptist, St. Tammany, Tangipahoa, Washington

of roads, highways, expressways, bridges, and any other special highway engineering program. The office of highways is under the supervision of the chief engineer.

### ! Office of Planning and Programming

The office of planning and programming administers all planning and programming matters of the department related to strategic and intermodal issues, highways, bridge, and pavement management, data collection and analysis, congestion, and safety matters.

### ! Office of Operations

The office of operations handles the operations of the nine district offices, the Crescent City Connection Division, and the Sunshine Bridge.

### ! Office of Public Works and Intermodal Transportation

The office of public works and intermodal transportation administers all matters related to the design, construction, improvement, extension, repair, and regulation of aviation, public transportation, public mass transit, railroad, and water transportation systems. It also administers the public works functions of the state related to flood and drainage control, reclamation, water resources, soil conservation, mapping, and disaster relief.

**Priority Programs**

The Louisiana Legislature has established four major programs to prioritize transportation and public works projects to be administered by DOTD. These programs and a brief summary of each are as follows:

**! The Highway Priority Program**

In 1974, the legislature established a new method for determining highway construction priorities. DOTD is required to classify the 16,675 miles within the state-maintained highway system and to establish standards for those classifications. The department is charged with a continuing study of the needs of the various classifications of highways to bring existing highways up to those standards or to replace existing highways when required.

Each year the department submits a program of construction projects to be commenced in the ensuing fiscal year, based upon anticipated revenues and listed in order of priority of projects in each classification. The following are factors which are considered when compiling this program: (1) alignment of existing roads, (2) width or elevation of the existing roadway and shoulder surfaces, (3) width of the rights-of-way, (4) cost of construction, (5) type and volume of traffic, (6) condition of structures and drainage, (7) accident rate, (8) geographical distribution of the roadways to be constructed or reconstructed, (9) population growth in each parish and the existing state highway transportation infrastructure to support the increase in population, and (10) economic development potential. In fixing priorities, the department shall primarily consider factors such as the condition of the roads and structures making up the state highway system and the urgency of the improvements. Additionally, the department shall consider and include capacity improvements in geographic areas where population has grown or traffic volume has increased and capacity improvements are necessary.

The department then submits the program to the House and Senate Committees on Transportation, Highways and Public Works, which hold joint public hearings in each of the nine highway districts in order to provide for public review and input. A report based upon the testimony received at these hearings is compiled and the department prepares the final construction program, which is then submitted to the legislature for funding. The legislature may remove any project which it determines is not in the proper order of priority; however, the legislature shall not add any projects to the final construction program nor shall the legislature make any substitutions for deleted projects.

**! Statewide Flood Control Program**

The Statewide Flood-Control Program provides for the method in which the department evaluates applications for flood control projects. Applications may be submitted by any duly authorized municipal, parish, or other governing authority to the office of public works and intermodal transportation by October first of each year. The applicant must describe the magnitude of the flooding or drainage problem and demonstrate the immediate need for the project, as well as provide the preliminary project design and cost estimate. Projects are evaluated by a flood control project evaluation committee based upon such factors as reducing the threat to human lives, benefit-to-cost information, technical feasibility, flooding history, and local support for the project. The flood control project evaluation committee shall submit a recommended list of projects to the House



and Senate Committees on Transportation, Highways and Public Works, which shall hold public hearings and ultimately approve the proposed list of projects. After adoption of the committee's recommendations by the legislature, the approved list of projects shall be forwarded to the office of public works and intermodal transportation for implementation. The office shall not delete, add, or substitute any projects for those approved by the legislature; however, the secretary may authorize projects to be undertaken and financed due to an emergency out of the secretary's emergency fund.

### ! **The Port Construction and Development Priority Program**

The Port Construction and Development Priority Program provides for the method in which port authorities apply for funding assistance with port construction or development projects. Applications are submitted by port authorities to the department by November first of each year. Applicants must provide a description of the project and project area and demonstrate the immediate need for the project, as well as provide a preliminary project design and cost estimate. After the projects are evaluated, the department prepares a priority list to be distributed to the House and Senate Committees on Transportation, Highways and Public Works. Public hearings are held to review this priority listing and the committees must approve the program before it can be implemented. When the final construction program is presented to the legislature for funding, the legislature shall not add any projects to the final construction program.

### ! **Airport Construction and Development Priority Program**

In accordance with the Airport Construction and Development Priority Program, airport authorities submit applications for funding of airport construction or development projects to the department by November first of each year. Applicants must provide a description of the project and the project area and demonstrate the immediate need for the project, as well as a preliminary project design and cost estimate. After the project applications are evaluated, the department must prepare a priority listing and submit it to the Joint Committee on Transportation, Highways and Public Works prior to the convening of each regular session. The joint committee must then hold public hearings for the purpose of reviewing the priority list of projects for each fiscal year. Subsequent to the joint committee's public hearings and prior to the convening of each regular session, the department is required to prepare the final construction program for the coming fiscal year for submission to the joint committee.

After approval by the joint committee, the legislature is prohibited from adding projects to the list unless ninety percent of the funding for an airport, or for an airport project, is received from federal sources or from sources other than state funds. Projects are funded through appropriations from the Transportation Trust Fund in the Capital Outlay Act. Any funds not expended for the projects for which the funds were appropriated shall be returned to the trust fund.

## **Funding**

### ! **Transportation Trust Fund**

Revenues received from the taxes on gasoline, motor fuels, and special fuels are deposited into the constitutionally based Transportation Trust Fund (*Const. Art. VII, §27*). Monies

in the fund are used to repay specific debt in existence prior to the creation of the Transportation Trust Fund or to repay debt issued in connection with the Trust Fund. Thereafter, the monies in the Transportation Trust Fund are appropriated exclusively for the construction and maintenance of roads and bridges of the state and federal highway systems, the Statewide Flood Control Program, ports, airports, transit, state police for traffic control purposes, and the Parish Transportation Fund. The monies allocated to ports, airports, flood control, parish transportation, and state highway construction must be appropriated pursuant to the priority programs established by law.

In addition, all monies appropriated to the state by the Federal Highway Administration and the Federal Aviation Administration are deposited in and credited to the trust fund.

Funds appropriated to ports, the Statewide Flood Control Program, the Parish Transportation Fund, and state police shall not exceed twenty percent of the total state tax-generated revenues in any one year. The amount appropriated each year to the Parish Transportation Fund shall be no less than the avails of one cent of the tax on gasoline and special fuels.

### **! Transportation Equity Act for the 21st Century**

The federal transportation legislation, Transportation Equity Act for the 21st Century, or TEA-21, builds upon the initiatives established in the Intermodal Surface Transportation Efficiency Act of 1991, or ISTEA. TEA-21 authorizes highway, highway safety, transit, and other surface transportation programs for the next six years. One of the key features of TEA-21 is a guaranteed level of federal funds for surface transportation through fiscal year 2003.

TEA-21 also includes a listing of 1,850 “high priority” projects. When compiling this list of projects and allocating monies to each project, congress did not provide for the full cost of each project. Instead, they allocated a certain amount of money to begin the project, and usually these monies are spent in the preconstruction phase. Of the total number of “high priority” projects, over forty are based in Louisiana, including \$4.1 million for the construction of the southern extension of I-49 from Lafayette to the Westbank Expressway, \$3.3 million to extend I-49 from I-220 to the Arkansas state line, and \$6 million to extend Howard Avenue to the Union Passenger Terminal in New Orleans.

Since TEA-21 is set to expire in FY 2003, Congress is currently working on a long term reauthorization bill which has been referred to as SAFETEA. It appears that safety will be a key component of SAFETEA and there is a push for an increase in federal funding for the states. However, since all long term issues regarding SAFETEA have not been resolved, Congress has extended TEA-21 for at least five months.

### **! Public Transportation**

The Transportation Equity Act for the 21st Century, or TEA-21, included guaranteed record funding increases for transit. On the state level, transit issues are handled through the department’s office of public works and intermodal transportation where there are Public Transportation and Rail Programs.

The mission of the Public Transportation Program is to improve public transit in all areas of the state so that citizens may enjoy an adequate level of personal mobility regardless of geographic location, physical limitation or economic status. The mission of the Rail Program is to develop, promote, and improve passenger and freight rail transportation and safety in the state.

Some of the programs in the Public Transportation Program are the Rural Public Transportation Program, Rural Training and Technical Assistance Program, Elderly and Disabled Capital Program, and the Metropolitan Transit Planning Program. Additionally, a discretionary program, known as the Job Access and Reverse Commute Grants, designed to transport welfare recipients and eligible low income individuals to and from jobs and activities related to their employment, is included in the Public Transportation Program.

Some of the new programs in the Rail Program are High Priority Projects such as a Louisiana segment of the Gulf Coast High Speed Rail Corridor, a railway-highway crossing hazard elimination in high speed rail corridors, and a New Orleans CBD to New Orleans International Airport commuter rail line. Additionally, other programs such as Light Density Rail Line Pilot Projects and Railroad Rehabilitation and Improvement Financing are also included in the Rail Program.

### **! Transportation Infrastructure Model For Economic Development (TIMED)**

The Transportation Infrastructure Model For Economic Development (TIMED) program is a specific listing of infrastructure projects which are to be funded from a dedicated source of revenue. There is a sub-account in the Transportation Trust Fund into which the proceeds of a four-cent per gallon special tax on gasoline and special fuels are deposited. The specific list of infrastructure projects is to be funded solely by the proceeds of that special four-cent per gallon tax. The tax was originally levied for a period of time not to exceed fifteen years (from January, 1990 to January, 2005) or until all outstanding debt is paid, whichever comes first. But in 1998, the legislature took action to extend the duration of the tax until the TIMED projects are completed and the bonds are paid in full. However, bonds for the TIMED projects may not be issued after January 1, 2005.

The Department of Transportation and Development was challenged to complete construction of the TIMED Program projects earlier than was originally planned. As a result, the department hired a consultant to manage the program and sold approximately \$275 million in bonds in August 2002 to help accelerate the program. According to the department's plan, the estimated cost of completing the projects is approximately \$2.5 billion. Furthermore, the department's goal is to complete all of the projects by 2010, which is 20 years earlier than the original completion date of 2030.

Lastly, Act 1301 from the 2003 Regular Session proposed a constitutional amendment to clarify several of the TIMED project descriptions. The constitutional amendment was approved by the voters in the gubernatorial primary election held in 2003, therefore, the new project descriptions are reflected in the chart that follows.

**TIMED Program Projects**

The following is the list of infrastructure projects which are to be funded through the proceeds of the special four-cent per gallon tax on gasoline and special fuels. The list is a statutory list which was referenced as it exists below in the constitutional creation of the Transportation Trust Fund. Therefore, any changes to the list would require a constitutional amendment.

(\$ in millions)

**(a) Highway Projects**

US 171 - Lake Charles to Shreveport	\$415.0
US 165 - from I-10 to Alexandria to Monroe to Bastrop and thence on US 425 from Bastrop to the Arkansas Line	492.0
US 90 - Morgan City to Houma	256.0
US 167 - Alex.-Ruston to Arkansas Line	389.0
LA 3241 - I-12 to Bush (Bogalusa)	52.0
Jefferson Parish West Bank Expressway (Avenue D to Ames Blvd.)	33.2
New Orleans Tchoupitoulas Street Corridor	55.0
Earhart Blvd. (Orleans Parish Line to Loyola Avenue)	20.0
West Napoleon (Jefferson Parish)	53.0
Baton Rouge to Monroe:	
LA 15 - Natchez, Miss. to Chase	66.0
US 61 from Thompson Creek to the Miss. Line	29.0

**(b) Bridges**

New Mississippi River Bridge at St. Francisville (Connection to US 61)	150.0
Huey P. Long Bridge (widen to six lanes)	220.0
New Florida Ave. Bridge over Industrial Canal	129.0

**(c) Port of New Orleans**

100.0

**(d) New Orleans International Airport**

75.0

**! Parish Roads**

Parish roads are under the jurisdiction of parish governing authorities and are not constructed or maintained by the state. The state may take a parish road or municipal street into the state system if it is necessary to complete a segment of state highway. Occasionally a parish road is taken into the state system and a state highway is “traded” out.

As a general rule, the department is prohibited from performing any work, either construction or maintenance, on the parish road system or any other roads or streets not in the state highway system. However, the legislature did provide for the creation of the Parish Transportation Fund to financially assist the parishes with the construction and maintenance of roads.

R.S. 48:753 provides for the uses of the monies in the Parish Transportation Fund. For example, the monies shall be used for the construction and repairing of roads, bridges, dykes, dams, and levees when the work will further the best interest of the parish. The monies may also be used to purchase equipment for road work and to assist in providing public transit. In return, all parishes are required to adopt a system of road administration which requires the approval of the parish governing body for any expenditure made out of this fund. This system must include a capital improvement program on a selective basis, centralized purchasing of equipment and supplies, centralized accounting, and selective maintenance and construction based upon engineering plans and inspection.

## **TRANSPORTATION AND INFRASTRUCTURE**

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Monies in the Parish Transportation Fund are distributed to the governing authority of each parish on a per capita basis in population categories, based on the population as determined by the division of business and economic research of Louisiana Tech University under the most recent federal-state cooperative program for local population estimates. For example, parishes with a population up to 16,000 would get \$13.32 per capita and parishes with a population between 16,001 and 45,000 would get \$10.82 per capita. State law also provides that if funds are appropriated to the fund in excess of the amount appropriated in Fiscal Year 1994-95, then the money is distributed to the parishes on a per-mile of parish road basis.

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## Part VI. Natural Resources and the Environment

The natural resources of Louisiana include land, minerals, water, fish and wildlife, and the environment of our state. The Department of Natural Resources, the Department of Environmental Quality, the Department of Wildlife and Fisheries, the Wildlife and Fisheries Commission, and the Department of Agriculture and Forestry share responsibility for protecting, conserving, and managing these resources.

### DEPARTMENT OF NATURAL RESOURCES

The Department of Natural Resources is responsible for the conservation, management, and development of water, minerals, and other natural resources of the state and for the administration of state lands. The department is headed by a secretary, appointed by the governor and confirmed by the Senate. The major components of the department are the office of the secretary, the office of management finance, the office of conservation including the Commissioner of Conservation, the office of mineral resources and the State Mineral Board, and the office of coastal restoration and management. The department maintains satellite offices in New Orleans, Monroe, Shreveport, Lafayette, and Thibodaux.

#### ! Office of the Secretary

The secretary is appointed by the governor and is the chief administrative officer of the department. He is responsible for the implementation of state policy provided by law for the department. He is in charge of the administration, control, and operation of the functions, programs, and affairs of the department. Additionally, the secretary is an ex officio member of the State Mineral Board.

The office of the secretary of the Department of Natural Resources includes a number of programs and agencies:

- ***Technology and energy research and development division.*** The technology and energy research and development division is responsible for planning and research in the areas of energy conservation, alternate energy sources, and general energy planning for the state. The technology section is responsible for the Strategic Online Natural Resources Information System (SONRIS) which includes online oil and gas records and coastal documents, maps, and other data accessible via the internet. GIS information for over 200,000 wells located in Louisiana can be found at the department's website, [www.dnr.state.la.us](http://www.dnr.state.la.us).
- ***Legal, public information, and energy sections.*** The legal, public information, and the energy sections fall within the office of the secretary. The energy section administers the Home Energy Loan Program and assisted in creating the state's Commercial Building Code.
- ***Atchafalaya Basin Program.*** In addition, the Atchafalaya Basin Program is in the office of the secretary. In 1996, Governor Foster designated the Department of Natural Resources to be the lead agency in the development and implementation of a plan to meet the state's responsibility as a partner with the U.S. Army Corps of Engineers in a unique undertaking – the conservation, restoration, and development of the environmentally unique Atchafalaya Basin, the largest river-swamp in the country. The program works in partnership with the Corps, other federal agencies such as U.S. Fish and Wildlife Service and the U.S. Geological Survey, state agencies including the Department of Agriculture and Forestry, the Department of Environmental Quality, the Department of Wildlife and Fisheries, and the eight basin parishes – Assumption, Avoyelles, Iberia, Iberville, Pointe Coupee, St. Landry, St. Martin, and St. Mary. The work is done through many committees which include members from public agencies, interested user groups, and interested citizens.

### ! Office of Conservation/Commissioner of Conservation

The office of conservation is headed by the commissioner of conservation who is appointed by the governor. The office is responsible for the regulation and conservation of the natural resources of the state not specifically within the jurisdiction of other offices. Its functions include the following:

- conservation of oil and gas resources of the state;
- promotion and encouragement of exploration, production, and refining efforts for oil and intrastate gas;
- regulation of the construction and operation of intrastate pipeline systems, including pipeline safety;
- implementation of emergency gas shortage allocation plans;
- regulation of the minimum sales price of intrastate natural gas;
- regulation of underground injection wells for hazardous and nonhazardous waste;
- clean up of abandoned oil field waste sites. Over 200 orphaned oil field sites in the state are cleaned up each year under the Oil Field Site Restoration Program.

In 2003, the office of conservation was given the additional responsibility of management of the state's ground water resources.

! **Office of Mineral Resources/State Mineral Board**

The State Mineral Board is an independent agency within the office. It has the responsibility to lease state land for the development and production of minerals, oil, and gas. The eleven-member board is composed of the governor, the secretary of the Department of Natural Resources, and nine members appointed by the governor for six-year terms.

The office of mineral resources functions as the staff for the State Mineral Board and is responsible for leasing state lands and water bottoms for the development and production of minerals, oil, and gas. The office exercises the option of the state to receive in kind the portion due to the state as mineral royalties produced from leased premises, and receives, administers, and controls royalties due in kind to the state. The office of mineral resources collects in the neighborhood of \$350 million each year for deposit in the State General Fund.

! **Office of Coastal Restoration and Management**

The office of coastal restoration and management oversees all programs and projects for conservation and restoration of coastal wetlands and is divided into two divisions: the coastal restoration division and the coastal management division.

**Coastal Wetlands Conservation and Restoration Plan.** The office of coastal restoration and management is the lead state agency for implementation of the Coastal Wetlands Conservation and Restoration Plan. The plan is developed by Wetlands Conservation and Restoration Authority in the governor's office and approved by the legislature. Funding for the plan comes largely from the federal government through the Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA), commonly referred to as the Breaux Act. The task before this office, and the state as a whole, is large. The state loses in the neighborhood of 25 square miles of coastal wetlands each year.

**Coastal Zone Management Program.** The coastal management division regulates activities in the coastal zone through issuing coastal use permits, conducting coastal management research, monitoring uses of the coastal areas, and administering the Coastal Zone Management Program. In 1998, the coastal management division adopted the programmatic general permit (PGP) which consolidated the permitting processes of federal and state agencies. The division is currently in the process of further streamlining the permit process.

## **WILDLIFE AND FISHERIES**

The authority over wildlife and aquatic life in the state is shared by the Louisiana Wildlife and Fisheries Commission and the Department of Wildlife and Fisheries.

### **Louisiana Wildlife and Fisheries Commission**

Constitutional Article XI, Section 7 vests “. . .*control and supervision of wildlife of the state, including all aquatic life.* . .” with the Wildlife and Fisheries Commission. The commission is composed



of seven members appointed by the governor. Six members serve overlapping six-year terms and one member serves a term concurrent with the governor. No person may serve longer than six years. Three members are required to be electors in the coastal parishes and representatives of commercial fishing and fur industries. The remaining four members are required to be electors from the state at large and representative other than commercial fishing and fur industries.

The commission meets on the first Thursday of each month. Hunting and fishing seasons, times, places, size limits, creel limits, and quotas are generally set by the commission.

### **Department of Wildlife and Fisheries**

The Department of Wildlife and Fisheries functions as staff for the Wildlife and Fisheries Commission. However, the department also has functions and responsibilities separate and apart from its role as staff for the commission. The department is statutorily vested with control and supervision over all the wildlife of the state, including fish and other aquatic life, and is given the authority to administer and enforce laws relating to the management, protection, conservation, and replenishment of wildlife, fish, and aquatic life. In addition, the department is responsible for the conservation and management of all renewable resources on properties owned and managed by the department. The department is divided into four separate offices: the executive office, the office of management and finance, the office of fisheries, and the office of wildlife.

#### **! Executive Office**

The secretary serves as the chief administrative officer of the department. Included in the executive office are the legal staff, a planning staff, the education and information division, and the enforcement division.

#### **! Office of Management and Finance**

The office of management and finance provides the accounting, budgeting, procurement, personnel management, data processing, and general administrative services for the Department of Wildlife and Fisheries.

***Licensing.*** In addition, the office of management and finance contains the licensing section of the department. The licensing section is responsible for the issuance and management of all of the hunting and commercial and recreational fishing licenses issued in the state.

#### **! Office of Fisheries**

The office of fisheries is responsible for the administration and operation of programs relating to saltwater fisheries, freshwater fisheries, water bottoms, and seafoods, including but not limited to the regulation of sport and commercial fishing, the oyster, shrimp, and marine fishing industries, the licensing of vessels engaged in the industry, and the collection of the severance tax on shrimp, oysters, sand, gravel, and fill materials severed from state water bottoms. The office fulfills its responsibilities through the marine fisheries division and the inland fisheries division.

### Marine Fisheries Division

The management of the state's marine fisheries throughout coastal Louisiana is the marine fisheries division's primary responsibility. This is accomplished through multiple programs:

#### *Fisheries Management Programs:*

- ***Shellfish and Finfish Management.*** The division manages the state's marine finfish program through the development of annual stock assessments upon which to make policy recommendations relative to the fishery. The division recommends dates for fall and spring inshore shrimp seasons.
- ***Oyster Leasing Section.*** The division manages the state's extensive public oyster seed grounds, and administers the oyster leasing program with over 8,800 leases involving over 415,000 acres.
- ***Artificial Reef Program.*** The marine fisheries division administers the Artificial Reef Program which manages recycled obsolete oil and gas platforms as habitat for coastal fisheries. The program has placed more than 85 structures to date.

#### *Habitat Protection Programs:*

- ***Oil Spill Task Force.*** The Oil Spill Task Force in the marine fisheries division works with the Oil Spill Coordinators Office and develops plans to protect and restore the state's wildlife, fishery, and habitat resources from the adverse effects of oil spills.
- ***Seismic Monitoring.*** The seismic monitoring program of the division has as its primary mission the protection of fish and other wildlife from injury due to seismic exploration.
- ***Coastal Wetlands Conservation and Restoration.*** In addition, the marine fisheries division works closely with the Coastal Wetlands Conservation and Restoration Program to provide the fisheries management information necessary for the development of policies and projects for coastal restoration and conservation. The division also conducts fisheries monitoring activities for the state's coastal program.

### Inland Fisheries Division

The Inland Fisheries Division is responsible for freshwater fish management and research.

- ***Freshwater management of public water bodies.*** Nine districts are located throughout the state to facilitate the freshwater management of public water bodies. Personnel at these offices are responsible for monitoring fish populations. Water quality is monitored when conducting fish sampling. This type of sampling is conducted on approximately 60 water bodies annually. The division provides assistance to private land owners on managing small ponds. Additionally, the inland fisheries staff periodically conducts fishermen interviews to obtain catch informa-

tion. Information acquired is used to prepare water body management plans that include recommendations such as drawdowns, habitat modifications and changes in fishing regulations. The management team also investigates fish kills and determines the effect of the fish kill on the overall fish population.

- ***Fish stocking.*** The Inland Fisheries Division stocks over five million fish annually into Louisiana water bodies. The primary species stocked is Florida largemouth bass, but other species such as paddlefish (spoonbill catfish), striped bass, hybrid striped bass and catfish are also stocked. Stocking is accomplished utilizing hatcheries located at Toledo Bend, Monroe, Forest Hill and Lacombe.
- ***Invasive aquatic plants.*** The control of invasive aquatic plants, primarily exotics, is the responsibility of the inland fisheries division. Each year approximately 27,000 acres of water hyacinths are sprayed by departmental employees. The department has also utilized helicopter spraying to control vegetation on an additional 5,000 - 7000 acres. With an annual maintenance program, the department can control vegetation and provide recreation/access on approximately 435,000 acres of water bodies. This program not only benefits fishermen, hunters, trappers, boaters, and agriculture, but also the health of the native fish and plant communities.

## ! Office of Wildlife

The office of wildlife consists of two divisions, the wildlife division and the fur and refuge division. These two divisions differ in mission and focus. The fur and refuge division's areas of responsibility are largely coastal (marsh), furbearer (including alligators), permitting, and non-game (including urban wildlife and threatened and endangered species). The wildlife division's areas of responsibility are largely outside of the coastal zone (except for waterfowl), forest and farm-based, permitting, and game.

The office of wildlife monitors wildlife populations and activities in order to develop habitat management programs and harvest regulation recommendations which benefit the wildlife of the state. The office also provides technical assistance for management of other public and private lands for the benefit of wildlife.

The fur and refuge division is responsible for:

- ***Alligator management program.***
- ***Reptile and amphibian program.***
- ***Furbearer management program.*** The furbearer management program includes the Coastwide Nutria Control Program which was developed in conjunction with the Coastal Wetlands Conservation and Restoration Program.
- ***Mineral activity and coastal use permits.*** In addition, the division provides oversight for all mineral activity and coastal use permits on department-owned property.

### Properties managed by the fur and refuge division (including the parish where located)

#### Wildlife Management Areas:

Atchafalaya Delta	St. Mary
Pass-A-Loutre	Plaquemines
Pointe-au-Chenes	Lafourche, Terrebonne
Wisner	Lafourche

#### Refuges:

Marsh island	Iberia
Rockefeller	Cameron, Vermilion
St. Tammany	St. Tammany
State Wildlife	Vermilion

The wildlife division is responsible for:

- ***The deer management program***, including the Deer Management Assistance Program (DMAP).
- ***The natural heritage program***. The natural heritage program involves the protection of rare, threatened and endangered species and the wildlife rehabilitators and scientific collecting permits.
- ***The Louisiana Natural and Scenic Rivers System***, which protects and conserves streams as natural resources.
- ***The upland game management program***, which monitors quail, dove, woodcock, pheasants, rabbits, and squirrel.
- ***The Urban Wildlife Management program*** which provides technical assistance to local governments and private citizens for the management and enhancement of urban wildlife populations.
- ***The wild turkey program***.
- ***The waterfowl management program***. The waterfowl management program includes research and monitoring of waterfowl, coordination with other states and agencies and conservation groups relative to waterfowl management, technical assistance in the development and improvement of waterfowl habitat, and making recommendations for seasons and take limits for waterfowl hunting.

## ! Department-Managed Lands

The office of wildlife manages about 1.4 million acres of land for wildlife and compatible public uses. These lands encompass most habitat types found in Louisiana. The vast majority of the lands (1.2 million acres) managed by the two divisions are open to public hunting as well as

### Wildlife Management Areas administered by the wildlife division (including parish where located)

Acadiana Conservation Corridor	Avoyelles, Evangeline Rapides, St. Landry
Alexandre State Forest	Rapides
Attakapas	Iberia, St. Martin
Bayou Macon	East Carroll
Bayou Pierre	Red River
Bens Creek	Washington
Big Colewa Bayou	West Carroll
Big Lake	Franklin, Madison, Tensas
Biloxi	St. Bernard
Bodcau	Bossier, Webster
Boeuf	Caldwell
Boise-Vernon	Vernon
Buckhorn	Tensas
Camp Beaugard	Rapides
Dewey W. Wills	LaSalle
Elm Hall	Assumption
Fort Polk	Vernon
Grassy Lake	Avoyelles
Jackson-Bienville	Bienville, Jackson
Joyce	Tangipahoa
Lake Ramsey	St. Tammany
Little River	Grant
Loggy Bayou	Bossier
Manchac	Tangipahoa
Maurepas Swamp	Ascension, St. James, St. John
Ouachita	Ouachita
Pearl River	St. Tammany
Peason Ridge	Natchitoches, Sabine, Vernon
Pomme de Terre	Avoyelles
Red River	Concordia
Russell Sage	Ouachita
Sabine	Sabine
Sabine Island	Calcasieu
Salvador/Timken	St. Charles
Sandy Hollow	Tangipahoa
Sherburne	Pt. Coupee, St. Martin, Iberville
Sicily Island Hills	Catahoula
Soda Lake	Caddo
Spring Bayou	Avoyelles
Tangipahoa School Board	Tangipahoa
Thistlethwaite	St. Landry
Three Rivers	Concordia
Tunica Hills	West Feliciana
Union	Union
West Bay	Allen

various forms of fishing, birdwatching, and nature study. Deeds of donation prohibit hunting on the 200,000 acres of wildlife refuges. The absence of hunting is the major distinction between management areas and refuges.

***Wildlife Management Areas.*** Hunting regulations for wildlife management areas are generally more restrictive than the statewide regulations because of the intensity of use and management objectives. However, as a rule, resident small game and migratory birds have season length and bag limits the same as outside. Differences are largely limited to shooting hours and the period of time allowed for hunting squirrels and rabbits with beagles. Deer seasons are considerably shorter inside the wildlife management areas than seasons outside the areas.

### ! **Conservation Fund**

The Conservation Fund is the major funding source for the department. From 1990-98 the Conservation Fund comprised approximately 60% of the means of funding for the department and all of its programs.

The fund pays for all the basic operations of the department. It provides the state matching for all federal funds and the “over-match” funds when the federal funds only cover a portion of a project. If the department’s other funding sources dry up, the Conservation Fund is the replacement “rainy day” fund.

Revenue for the fund comes from a variety of different sources. The two largest sources of revenue are licensing and oil and gas-related revenue. Revenue created from licensing is generated from recreational fishing, recreational hunting, and commercial fishing. Oil and gas-related revenue comes from land and water bottom rentals, royalties, bonuses, and fees. Declining oil prices play a role in the decline in revenues to the Conservation Fund. In addition, the number of hunting and fishing licenses has been steadily decreasing over a several-year span of time further compounding the decline in revenues. At the current time, the department is hoping to develop alternate sources of revenue.

### **STATE LAND OFFICE**

The State Land Office in the division of administration is responsible for the identification, administration, and management of state public lands and water bottoms. It works with a broad range of clientele having varying degrees of interest in public lands, navigable water bottoms, and minerals. The primary goal of the office is to ensure the highest economic return and the maximum public utilization of our state public lands and water bottoms.

Emphasis is placed by the office on increasing revenue production through multiple utilization while ensuring continued public utilization of state public lands and water bottoms. Multiple utilization includes land and timber sales; surface and sub-surface leasing; the issuance of rights-of-way and surface and subsurface agreements; and water bottoms permitting.

### **Records Section**

This section of the office can trace its history to the original creation of the State Land Office in 1844, whose function was to sell state-owned lands and maintain the records, documents, and plats of said sales. The records and maps kept by the section provide the evidence of state

ownership which is used to develop revenues from surface leasing and permitting for the State Land Office, and mineral leasing for the Department of Natural Resources.

### **Titles and Survey Section**

Pursuant to the statutory responsibility of the commissioner of administration to make title determinations and boundary settlements, this section serves as technical consultant to do all necessary surveying and title work. This technical assistance is important in the evaluation of the state's title during the review of state mineral lease applications on behalf of the Department of Natural Resources, office of mineral resources. The evaluation not only assists the Department of Natural Resources in the preparation of the proper title description to be used in the lease contract, but also ensures the correctness of the description submitted in its bidding process. The section also acts as title consultant to the Office of the Attorney General, the State Mineral Board, the Department of Wildlife and Fisheries, and other agencies directly or indirectly involved with state public lands.

### **Land and Waterbottom Management Section**

This section is responsible for the proprietary aspects of land management, excluding minerals. Its programs include land sales, right-of-way and surface leases, water bottom permits and leases, and timber management.

## **MAJOR NATURAL RESOURCES ISSUES FACING THE STATE**

### **Coastal Preservation and Restoration**

The state of Louisiana loses approximately twenty-five square miles of land each year in its coastal region. This loss of land is attributable to many different factors, such as erosion; canal, channel, and levee construction; subsidence; hurricanes; and development.

*Impact of coastal erosion.* The impact of this loss of land in Louisiana is broad-based and enormous. Loss of land will be felt by coastal communities not only because yards, roads, and fields will be disappearing, but also because the land and marsh offer storm protection and provide fish and wildlife habitat for the hunters and fishers of the state, both commercial and recreational. The fisheries industry in Louisiana has a direct value of approximately \$1 billion a year. There is indirect value which can be added to that figure. Fish are obviously impacted by land and marsh loss. Wildlife also is dependent on the marshes and coastal areas of Louisiana for food and habitat. The coast provides wintering grounds for hundreds of thousands of waterfowl and is the location of the hunting that accompanies the presence of those waterfowl. In addition, Louisiana has a fairly large alligator industry which is dependent on the coastal marshes.

*Impact on oil and gas industry.* The loss of land along our coast also has a tremendous impact on the oil and gas industry which is so important to our state. Since the industry developed at a time when there was much more land along our coastal regions than there is now, the oil and gas industry infrastructure was built to exist on land with no anticipation that the infrastructure would one day be floating on water. The loss of land exposes pipelines and platforms to wave action, to storm surge, and even to the possibility of being hit by marine traffic. And, the ports which service the oil and gas industry and the roads necessary to reach those ports are obviously

at risk due to land loss. It will be difficult to continue to service the Gulf of Mexico oil and gas industry when there is no land on which to maintain port facilities and roads.

Another industry which will feel the impact of coastal loss in Louisiana is the shipping industry. More than 400 million tons of commerce move through Louisiana waters each year. Barge traffic which traverses canals throughout the coast will definitely feel the impact of land loss. The oil and gas industry also uses those same canals to service its facilities and move its products. Two other areas where the loss will be felt are infrastructure (roads and highways) and recreation. The coastal region of Louisiana is of enormous importance to the state and to the industries which provide the state with its economic backbone.

*Agencies working together.* There are many different agencies, both state and federal, working together to develop and implement a coordinated plan to preserve and restore as much of our state's coastline as possible. The governor's Office of Coastal Activities was created to coordinate coastal activities among the state agencies. The state Department of Natural Resources, through its office of coastal restoration, the state Department of Wildlife and Fisheries, many researchers at LSU, UNO, ULL, Tulane, and Nicholls, the Department of Transportation and Development, the Department of Environmental Quality, and the Department of Agriculture and Forestry all play a role in coastal restoration activities. In addition to the state agencies, several federal agencies are involved, including the U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service, the U.S. Geological Survey and its Wetlands Research Center in Lafayette, the National Oceanographic and Atmospheric Administration, the U.S. Department of Agriculture, and the U.S. Environmental Protection Agency.

*Coastal Wetlands Planning, Protection and Restoration Act.* In 1989, the U.S. Congress enacted the Coastal Wetlands Planning, Protection and Restoration Act which included funding for a ten-year period of time. The act is commonly called either CWPPRA or the "Breaux Act." The funds are derived from a user fee on certain recreational outdoor equipment, and on small engines and fuel used in those small engines. There are two task forces which review and approve plans for expenditure of the funds. One is a state/federal task force and one is a task force composed entirely of state agency representatives. The state task force is called the Wetlands Conservation and Restoration Authority (R.S. 49:213.1 *et seq.*). Each year the Wetlands Conservation and Restoration Authority presents to the legislature a resolution for legislative approval of the plan for expenditure for that fiscal year.

*Future efforts.* Through 2003, the state's coastal efforts have largely been a series of small, individual projects located along the coast. Current and future efforts are beginning to be more along the lines of a coordinated effort to enter into complex projects with many different phases which have greater impact over a larger area of the coast. The Department of Natural Resources has spent several years in the development of a coordinated plan for the coastal areas of the state. State, federal, and local public agencies and many private organizations and individuals were involved in the process of development for this plan. It is called "*Coast 2050: Toward a Sustainable Coastal Louisiana.*" Based on information obtained in the development of this plan, the department estimates are that it will take nearly \$14 billion over the next twenty to thirty years to actually stop land loss along the state's coast. With that estimate, it is obvious that the \$45 million which has been set aside annually is not adequate to address the problem.

Objectives in the Coast 2050 Plan include:

- Barrier Island/shoreline protection
- River diversions
- Sediment introduction
- Chenier plain restoration
- Land bridge maintenance
- Atchafalaya flow optimization
- Hydrology and drainage improvements

An effort is underway using the talents and knowledge of the federal and state agencies and universities to develop the Louisiana Coastwide Assessment and present to Congress by the summer of 2004 (for inclusion in the 2004 Water Resources Development Act) a plan for conservation and restoration of Louisiana's coastal wetlands. The objectives outlined in the Coast 2050 plan are a major component of the blueprint for coastal stabilization and restoration in the next century. The plan will include a request from the state of Louisiana for federal financial assistance in preserving "America's WETLAND" since the loss of coastal wetland will have a national impact. In addition to asking for federal assistance, Louisiana will be expected to offer its fair share of the burden for the conservation and restoration of its coastline.

### **Oyster Industry and its Relationship to Coastal Restoration**

Louisiana has an oyster industry that produces nearly 1/3 of all the oysters landed in the United State. The nearest competitor state is Washington state which lands less than half the amount landed in Louisiana. Our industry is managed in a unique manner. Our industry is composed of a private leasing program (418,000 acres leased by 8,762 leases to 1,458 leaseholders) and a public grounds program utilizing approximately 2 million acres. The public grounds are used for harvest during certain seasons and for seed oysters for transplanting on public grounds and private leases.

*Economic Benefit.* In 1998, the Department of Wildlife and Fisheries conducted a survey of the economic impact of fisheries, wildlife, and boating resources in the state. The annual oyster harvest at the time was 12,856,173 pounds of meat with a dockside value of \$30,994,392 and a retail sales value of \$210,347,104. There were 3,084 full time jobs in the oyster industry resulting in \$44,185,583 in income. Annual state sales tax revenues were \$8,467,034 and state income tax revenue was \$2,032,649. Obviously, it is a major industry in the state of Louisiana.

*Relationship to coastal restoration.* Although the oyster industry was one of the first to understand the potential dangers posed by coastal erosion and was one of the earliest voices to be heard in the call to action, the impact of coastal restoration is felt directly by the oyster industry. Oysters grow in relatively shallow water along the coast where the salinity levels are between 5 and 15 parts per thousand. One of the major focuses of coastal restoration is to increase the amount of freshwater in the marshes and push the encroaching saltwater back towards the Gulf. As the 5 to 15 ppt salinity line moves south, those oyster leases located north of the line are impacted by the change in salinity and will likely have to be relocated. Obviously, there is conflict between some coastal restoration efforts and existing oyster leases. However, the oyster growers understand the devastation that would result from continued land loss in the coastal areas, both on the leases themselves and on the oyster grower's families who all live along Louisiana's coast. Coastal restoration and oyster growing are intertwined and must be understood together.



### **Invasive Species Control and Management**

An issue that is becoming of greater concern to the state of Louisiana is control of non-native invasive species. And, it is an issue that is also related to coastal restoration because it is an issue that must be recognized and incorporated into the planning for restoration efforts. The non-indigenous invasive species are so numerous that the country's, and the state's, eco-systems are being completely altered by the presence of the alien species. The battle with these species is estimated to cost the nation more than \$137 billion each year to fund programs to control the spread of the nonnative species, to repair damage to our natural resources and to mitigate the impact on the nation's economy.

*National focus.* The concern over this issue prompted creation of the National Invasive Species Council in 1999 to begin work on a national policy to meet the challenge of controlling and managing these non-native invaders. The council reported in 2001 with initial proposals. The proposals included a state-by-state assessment of the presence of nonindigenous invasive species, their impact, and possible management regimes to control or eliminate them. Louisiana has responded by creation of a state task force on non-indigenous invasive species. The task force has been meeting during 2003 to begin the process of identifying the invasive species which have found their way into Louisiana. The estimates are that of the 1,000 non-native species found in Louisiana, 100 of them are invasive.

*Invasive species in Louisiana.* Some of the invasive species that have found their to Louisiana include the kudzu, water hyacinth, and salvinia with which we are all familiar. However, Louisiana is also confronted with many other invasive species such as nutria, tallow trees, fire ants, Formosan termites, zebra mussel, and even West Nile virus which killed several people in Louisiana during the summer of 2002. In fact, the chronic wasting disease which has been found in the deer and elk herds in Colorado, Wisconsin, and Illinois and was the subject of great concern in Louisiana recently because of the possible importation of deer from one of those states is an example of a nonindigenous invasive species.

The state task force is nearing completion of its plan to present to the legislature and to the national task force.

### **Movement of the Oil and Gas Industry further Offshore into the Gulf of Mexico**

The oil and gas industry is an old industry in the state of Louisiana. Production of petroleum products from land based exploration is decreasing while the new growth of production is in the deepwater regions, largely in the Gulf of Mexico. Our onshore, or "on the shelf," industry is very mature with an aging infrastructure. New discoveries with larger reserves are more likely to be found in deepwater, and we now have the technology to capture those reserves. And, new technology to go even deeper is being developed. The major oil and gas companies have already moved their focus and activities to deepwater and have left the onshore and shelf activity to the smaller independent oil and gas companies.

These changes will necessitate many changes for the state of Louisiana. Our service industries will need to make the conversion to a water-based support system rather than land-based. Our ports will become the jumping-off points for service to the industry. And, revenues to the state from the industry will be decreasing because severance taxes from drilling outside the state boundaries are paid to the federal government, not to the state. These are issues that are likely to be factors in the development of public policy over the next few years.

### OTHER EMERGING ISSUES

**Management of groundwater.** During the 2003 Regular Session, the legislature created a new program within the office of conservation in the Department of Natural Resources and charged it with the responsibility to manage the state's groundwater resources. Although water problems in the state usually center around too much water, during the period from the late 1990s into the early years of this century, the state experienced a severe drought. That drought combined with salt water encroachment due to coastal erosion forced the state to realize that our freshwater groundwater resources are not unlimited and must be managed and protected for our future. This is an area under development by the state.

**Importation of foreign seafood.** Increasingly, seafood bought and sold in this country is imported from foreign countries where the food is aquaculturally raised rather than caught in the wild. The cost of the seafood is significantly lower than seafood caught and processed in Louisiana. The potential damage to our seafood industry is obvious. Although import tariffs which could control some of the importation are federal issues, this issue bears watching by the legislature.

**Access to water bodies.** Access to water bodies is a long-term simmering issue that has recently begun to boil. Louisiana Civil Code Article 450 states that "... Public things are owned by the state or its political subdivisions in their capacity as public persons" and "Public things that belong to the state are such as running waters, the waters and bottoms of natural navigable water bodies, the territorial sea, and the seashore." However, many canals have been dug along the coast for oil and gas purposes, and many of those canals have been dug through private property. The questions that arise from this situation are whether or not those are navigable waterbodies; whether the fish and wildlife found in those canals are covered by the constitutional provisions which give "... control and supervision of the wildlife of the state, including all aquatic life, ..." to the Wildlife and Fisheries Commission (Constitution Art. IX, §7); and can public access to those canals be restricted?

### DEPARTMENT OF ENVIRONMENTAL QUALITY

The Department of Environmental Quality (DEQ) is the primary state agency responsible for regulating those activities of man which may adversely impact our environment. The authority of the department derives from the power of the state to protect the health and welfare of her citizens. The constitutional public trust doctrine provides that "the natural resources of the state, including air and water, and the healthful, scenic, historic, and aesthetic quality of the environment shall be protected, conserved, and replenished insofar as possible and consistent with the health, safety, and welfare of the people; and that the legislature shall enact laws to implement this policy." (*Const. Art. IX, §1*) This policy "does not establish environmental protection as an exclusive goal, but requires a balancing process in which environmental costs and benefits must be given full and careful consideration along with economic, social, and other factors." (*Save Ourselves v. La. Environ. Cont. Com'n*, 452 So.2d 1152 (La. 1984)).

DEQ exercises this authority through evaluation, constraint, and mitigation of environmental pollutants, and its operations include licensing, investigation and penalty, and clean-up activities. When violations of environmental laws and regulations are discovered, the department may: suspend or revoke permits, issue compliance and cease and desist orders, and impose substantial civil sanctions. Additionally, the courts may impose significant criminal penalties in many cases.

## **NATURAL RESOURCES AND THE ENVIRONMENT**

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The Department of Environmental Quality oversees many environmental concerns including industrial pollution, hazardous wastes, radiation, solid wastes, landfills, recycling, and litter. It shares administration of sewerage and medical waste issues with the Department of Health and Hospitals. In addition, it works with the Department of Public Safety and Corrections to ensure safety in the transportation of hazardous chemicals on highways and in the development and implementation of chemical accident action plans.

The sphere of environmental protection is dominated by federal law including The Clean Air Act, The Clean Water Act, and other major pieces of legislation that have been adopted by Congress over the past thirty years or so. In most instances, federal law is administered by state agencies. In Louisiana, this means that the Department of Environmental Quality functions as kind of a branch office of the Environmental Protection Agency issuing licenses, performing inspections, and citing violators all in the enforcement of federal law. One consequence of this is that the Legislature's authority over the activities of the department is often more limited than its authority over other state agencies.

Structurally, the department consists of the office of the secretary, responsible for legal services, criminal investigations, technical expertise, audits, communication and media relations, and special projects; an office of management and finance as is typical of Louisiana's executive branch departments; and three programmatic offices:

### **! Office of Environmental Services**

The office of environmental services contains two divisions, the permit division and the environmental assistance division. These divisions are responsible for all permits, licenses, and certifications; small business and customer assistance; outreach; a complaints hotline, and community and industry relations.

### **! Office of Environmental Assessment**

The office of environmental assessment is empowered to develop and implement environmental regulations, construct strategic plans, inventory and monitor emissions, and oversee the remediation of contamination. It is also the branch of DEQ that reports on the performance of the environment and provides technical expertise in engineering and geology.

### **! Office of Environmental Compliance**

The surveillance division and the enforcement division are located in the office of environmental compliance. The duties of this office include ensuring compliance with the environmental laws and regulations of Louisiana by surveillance, inspection, responding to emergency situations, and resolving complaints. It is also responsible for taking action to ensure compliance.

## **DEPARTMENT OF AGRICULTURE AND FORESTRY**

Among the natural resources of the state are rich soil, abundant water, and a mild climate all of which help make Louisiana an ideal setting for agricultural and forestry enterprises. These environmental factors have made agriculture one of Louisiana's most important industries. In addition to forest products, major crops include cotton, corn, rice, soybeans, sorghum, grain, sugarcane, strawberries, sweet potatoes, and hay.

The Louisiana Department of Agriculture and Forestry is actively involved in maintaining the health of these and related industries, and it works to develop, promote, conserve, and support them. The department works year round with and for farmers to support overall economic viability and profitability by regulating quality, administering loan and grant programs, regulating trade issues, facilitating distribution, and taking an active role in developing markets for Louisiana products.

The Louisiana Constitution, Article IV, §10, mandates that the commissioner of agriculture and forestry, who is a statewide elected official, shall serve as administrator of the department and shall exercise all functions of the state relating to the promotion, protection, and advancement of agriculture and forestry, except research and educational functions expressly allocated by the constitution or by law to other state agencies.

### **Offices**

#### **! Office of the Commissioner**

The duties of the commissioner's office include administering the programs and functions of the department and setting policy directions for the agency. The commissioner serves as spokesperson for Louisiana agriculture throughout the state and nation to promote development of the agricultural industry and cooperate with federal agencies. The commissioner's office also provides farm crisis assistance.

#### **! Office of Management and Finance**

In addition to the typical responsibilities of an OMF office, the office of management and finance in the Department of Agriculture and Forestry coordinates and monitors the distribution of donated food commodities for the school lunch and other federal programs.

#### **! Office of Soil and Water Conservation**

It is a fact of agriculture that soil and water are depleted in the production of food and fiber: nutrients are removed from the soil, exposed soil tends to erode into streams, and runoff from agricultural lands often carries excessive nutrients, pesticides, and animal waste into streams. Consequently, if efforts are not made to preserve and conserve the supply and quality of these two essential resources, agriculture would not be sustainable over the long term. The office of soil and water conservation administers the state's conservation efforts. The office works with dozens of local soil and water conservation districts, landowners, and other governmental entities in planning and implementing soil and water conservation measures.

#### **! Office of Agricultural and Environmental Services**

This office is responsible for regulating the quality and safety of the raw materials of the agriculture industry; raw materials such as seed, fertilizer, and pesticide. Much of this work is done through sampling, testing, and analysis of agricultural input products sold in Louisiana. The office includes an agricultural chemistry laboratory, which is located at LSU and which performs much of the product testing. The office also operates horticulture and quarantine programs which work for the prevention, control, and

eradication of crop and fruit pests and diseases. It also oversees the qualification and practice of persons engaged in horticulture related businesses.

### ! **Office of Animal Health Services**

The office of animal health services works to protect the health of livestock in Louisiana and to prevent and control the spread of diseases. For example, preventing the importation of mad cow disease is a current focus of the office. The office operates a Veterinary Medical Diagnostic Laboratory at LSU to perform diagnostic tests. This office also provides some quality control services applicable to the production and sale of meat, poultry, eggs, and fruits and vegetables.

### ! **Office of Agro-consumer Services**

The office of agro-consumer services performs several diverse functions. Within this office is the Louisiana Agricultural Commodities Commission, which licenses commercial warehouses, grain dealers, and cotton merchants and carries out quantity and quality inspections of warehoused commodities. The dairy division within the office oversees the dairy industry. In addition to regulating the quality of milk, the division regulates the price of milk through the Dairy Stabilization Board. Also within this office is the weights and measures division. This division inspects weighing and measuring devices to ensure fairness in the marketplace. The jurisdiction of the division extends beyond devices used in the agriculture industry to include things like gasoline pumps and taxi meters.

### ! **Office of Marketing**

The office of marketing assists in the promotion and selling of Louisiana food and agricultural and forestry products by providing services in agribusiness development, research and information gathering, dissemination of market information, and the coordination of special events. Promotion boards in the office of marketing include the Catfish Promotion and Research Board, Crawfish Promotion Board, Louisiana Dairy Industry Promotion Board, Rice Promotion Board, Rice Research Board, Soybean and Grain Research and Promotion Board, Strawberry Market Board, and the Sweet Potato Advisory Commission.

Agribusiness is one of the divisions included within the office. This division offers a variety of financial assistance programs to farmers, processors, and 4H and FFA participants. The programs include the Louisiana State Market Commission, the Louisiana Alligator Market Development Authority, the Farm Youth Loan Program, and the Link Deposit Loan Program. The division is also active in recruiting agriculture processing businesses to Louisiana.

### ! **Office of Forestry**

Forests comprise a significant portion of the states environment and are among its greatest natural resources. The office of forestry works to protect this resource through education, wildfire suppression, promoting sound forest management practices, reforestation efforts, and enforcing timber-related laws. The office also operates and maintains the Alexander State Forest and Indian Creek Recreation Area near Alexandria.

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## Part VII. Economic Development

Economic development, encouraging the creation or expansion of business, has become an increasingly important legislative issue. So important that in 2001, the legislature enacted legislation which provided for a reorganization of the Department of Economic Development, with a goal of streamlining the processes used to foster economic development. The Act provided the Department of Economic Development mechanisms to respond more quickly and efficiently in its efforts to foster economic development. Over the past several decades, both state government and local governments in Louisiana have become more heavily involved in fostering economic development.

### CONSTITUTIONAL AUTHORITY

The Louisiana Constitution of 1974 defines the role of government in economic development with a number of important provisions. Among these are the following:

#### Assistance to Local Industry

Constitutional provisions authorize the legislature to allow local governments to issue bonds, subject to approval by the State Bond Commission, and to acquire, improve, or otherwise dispose of certain property “In order to induce and encourage the location of or addition to industrial enterprises therein which would have economic impact upon the area and thereby the state, ..” (*Const. Art. VI, §21(A)*) Other provisions authorize the legislature to allow parishes to create and define industrial areas within their boundaries. (*Const. Art. VI, §18*)

## **ECONOMIC DEVELOPMENT**

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### **Louisiana Education Quality Trust Fund**

Constitutional provisions establishing the Louisiana Education Quality Trust Fund dedicate so-called 8(g) funds to higher education. There is a specific mandate that not more than fifty percent of the monies in its Louisiana Quality Education Support Fund appropriated by the legislature and allocated by the Board of Regents shall be for specified higher educational purposes to enhance economic development. (*Const. Art. VII, §10.1*)

### **Use of Public Funds**

Constitutional provisions prohibit the loan, pledge, or donation of public funds or use to purchase stock of a corporation, association, or private enterprise, except for five permissible uses. (*Const. Art. VII, §14(B)*)

### **Cooperative Endeavors**

Constitutional provisions authorize the state and local governments to engage in cooperative endeavors for a public purpose with any public or private association, corporation, or individual. (*Const. Art. VII, §14(C)*)

### **Tax Exemptions**

Constitutional provisions which provide for tax exemption or abatement from property taxes are: (a) exemption of certain specified raw materials, goods, commodities, and articles imported into Louisiana from outside the states of the United States (*Const. Art. VII, §21(D)*); (b) the 10-year industrial exemption for certain manufacturing establishments (*Const. Art. VII, §21(F)*); (c) the exemption for expansion, restoration, improvement, or development of structures in a downtown, historic, or economic development district (*Const. Art. VII, §21(H)*); and (d) exemption of certain goods held in inventory by distribution centers. (*Const. Art. VII, §21(I)*)

## **DEPARTMENT OF ECONOMIC DEVELOPMENT**

The Department of Economic Development (DED), the state's chief economic development agency, is specifically charged with responsibility for fostering the growth of industry and other commercial enterprises in Louisiana that will contribute to the overall improvement of the economy of the state. The department also is required to promote the advantages of Louisiana to out-of-state business and industry, facilitate the expansion of existing enterprises, and coordinate with other state agencies and units of local government plans and programs aimed at developing optimum conditions for new and expanding industrial and commercial enterprises in Louisiana. (*R.S. 36:101(B)*)

In 2001, frustrated by the manner in which DED was performing its duties, functions, and responsibilities, the governor and the legislature pushed for a reorganization of DED, with a view towards streamlining and quickening the processes used to foster economic development. Act No. 9 of the 2001 Regular Session of the Legislature consolidated DED from seven offices to three, the office of the secretary, the office of management and finance, and the office of business development. Among other things the act provided that the office of business development shall perform the majority of the functions of the department and it expanded the authority and role of the Louisiana Economic Development Corporation. The legislation further provided that the corporation shall serve as the single review board for all financial

assistance, loans, incentives, workforce training, investment programs, and any related appropriations, grants, or joint ventures administered by the department. Additionally, it replaced the division of small and emerging business development with a more flexible Small and Emerging Business Development Program. Act No. 8 of the 2001 Regular Session of the Legislature furthered the goal of streamlining DED by transferring eighteen licensing boards to the office of the governor. Thus allowing DED to better focus its efforts on economic development.

#### **NINE IDENTIFIED INDUSTRY CLUSTERS**

1. Advanced Materials
2. Agriculture/Forestry/Food
3. Durable Goods/Manufacturing
4. Energy/Oil & Gas
5. Entertainment
6. Information Technology
7. Life Science/Biotechnology/Biomedical
8. Logistics/Transportation
9. Petrochemical Technology

The restructuring of the department's economic development process also involved implementing the "clustering" concept. Clusters are networks of

compatible or competitive inter-related companies working together to strengthen the industry market. Each cluster creates a commercial magnet that attracts customer, investment, a skilled workforce, and a specialized infrastructure.

#### **! Secretary**

Appointed by the governor, the secretary of DED serves as the executive head and chief administrative officer of the department. He has the responsibility for the policies of the department and for the administration, control, and operation of the functions, programs, and affairs of the department. (*R.S. 36:103*) His powers and duties are specifically enumerated in *R.S. 36:104*.

The secretary also certifies Louisiana capital companies. These companies are exempted from the corporation income tax and the corporation franchise tax for five consecutive tax tables. Certified capital companies provide financial assistance to businesses that are in need of capital for survival, expansion, new product development, or similar business purposes and meet several other financial requirements. (*R.S. 51:1921-1935*)

The secretary also approves applications for relief from the payment of sales and use taxes by motion picture production companies after the application is reviewed by the secretary and the recommendation of the governor's office of film and television development has been considered. (*R.S. 47:1121-1128*)

#### **State Board of Commerce and Industry**

The State Board of Commerce and Industry is constitutionally authorized to administer the following programs:

- ! Industrial Tax Exemption Program** – The board administers the 10-year industrial exemption for new and expanding manufacturing establishments (*Const. Art. VII, §21(F)*). The exempted taxes include parish and local property taxes. Exemptible property includes land improvements, buildings, machinery, equipment, and furniture for new, expanded, or renovated facilities. Land, raw materials, and finished products are not exempt. To obtain an exemption a business must be engaged in manufacturing, must



create or retain jobs, and must conform to all rules and regulations of the program. Additionally, the board must confirm that such exemption is in the best interest of the state.

- ! Restoration Tax Abatement Program – The board administers the 10-year parish property tax abatement for expansion, restoration, improvement, or development of structures in a downtown, historic, or economic development district. (*Const. Art. VII, §21(H) and R.S. 47:4311-4319*)

### COMMERCE AND INDUSTRY PROGRAMS

- ! Biomedical Research and Development Park Program
- ! Enterprise Zones
- ! Industrial Revenue Bond Program
- ! Industrial Tax Exemption Program
- ! Industry Assistance Program
- ! Inventory Tax Constitutional Amendment Program
- ! Quality Jobs Program
- ! Restoration Tax Abatement Program
- ! Tax Equalization
- ! University Research and Development Parks Program

The board also administers the following programs (*See Commerce and Industry Programs*):

- ! Biomedical Research and Development Park Program – Medical concerns who locate on this New Orleans site may be granted exemptions and credits for state corporate income and franchise taxes for up to five years. The exemptions or credits can equal the cost of machinery and scientific equipment used on the premises. Exemptions or rebates for state or local sales/use taxes on machinery, equipment, building supplies, and production supplies may also be granted to such qualified companies. (*R.S. 46:811-814*)
- ! Enterprise Zone Program – This program provides tax credits and state sales/use tax rebates to certain qualified businesses. One-time tax credits of \$2,500 per new permanent employee may be awarded to businesses that hire certain qualified employees, and additional \$2,500 credits may be awarded to companies that hire employees who were receiving FITAP at the time of hire and who are removed from such program as a result of employment. Tax credits for aviation and aerospace employees are even larger. Sales/use taxes may also be rebated on certain construction materials, equipment, and machinery. (*R.S. 51:1781-1791*)
- ! Industrial Revenue Bond Program – This program allows local authorities, development boards, and public trusts to issue up to \$10 million in tax-exempt revenue bonds to finance the construction and equipping of new industrial facilities or their expansion, and for the purchase of existing facilities by manufacturing firms. (*R.S. 39:991-997*)
- ! Industry Assistance Program – This program is designed to aid ailing Louisiana industries by providing tax relief for a limited period of time. The program can exempt or reduce several state taxes for up to five years, including sales/use taxes, corporate income taxes, and corporate franchise taxes. This program is available to certain manufacturing industries at the invitation of the governor. These industries must prove that if they receive the requested tax relief, their business may remain open. (*R.S. 47:4301-4306*)
- ! Inventory Tax Constitutional Amendment Program – Businesses qualified as distribution centers may qualify for an exemption from property taxes on goods held in inventory. This exemption may be for all or part of this tax, whichever is most beneficial to the parish as determined by the local economic development authority or district.

- ! Quality Jobs Program – Refundable tax credits can be awarded to certain businesses which anticipate creating an annual payroll of \$1 million for new direct jobs. Such businesses may receive quarterly incentive payments from the Department of Revenue. Eligible companies may receive up to 5% of their new payroll in rebates annually for five years with an option to renew for an additional five years. (R.S. 51:2451-2461)
- ! Tax Equalization – New manufacturing establishments, new headquarters establishments, or new warehousing and distribution establishments considering locating in other states due to the imposition of lower taxes in those states, may be eligible for this program. The competing sites must have equivalent or comparable tax advantages. (R.S. 47:3201-3205)
- ! University Research and Development Parks Program – This program provides the same benefits as the previous program for other parks located throughout the state that may or may not be medically oriented. (R.S. 17:3389)

### **Louisiana Economic Development Corporation (LEDC)**

LEDC serves as the single review board for all financial assistance, grants, and investment programs administered by DED, excluding those financial incentive programs administered by the State Board of Commerce and Industry. (*See **LEDC Programs***) The corporation is required to formulate and implement the policies for the delivery of services to obtain the following effects:

- ! The support of innovative private sector research and development activities by Louisiana businesses intended to generate commercial products, processes, or services by providing matching funds to those Louisiana small businesses that received federal Small Business Innovative Research (SBIR) Phase I grant funds.
- ! The encouragement of existing venture capital funds to invest in qualified Louisiana businesses in Louisiana and the encouragement of the formation of seed and venture capital funds in Louisiana.
- ! The leverage of funds from Louisiana financial institutions by issuing guarantees for economically disadvantaged and other Louisiana-based micro-businesses, small businesses, medium-sized businesses, and disabled persons business enterprises.
- ! The encouragement of firms organized under the Louisiana Business and Industrial Development Corporation Act to invest in qualified Louisiana businesses in Louisiana.
- ! The assistance to Louisiana local governments to provide infrastructure for economic development.
- ! The assurance that all qualified Louisiana businesses have capital access.
- ! The provision of lower cost funds for low-interest loans through a linked deposit program in cooperation with the Louisiana Department of the Treasury.

The corporation also has the power, authority, and duty to examine the impediments to the success of Louisiana small businesses from time to time and to adjust existing programs and

## ECONOMIC DEVELOPMENT

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develop financial programs that will alleviate such impediments. All programs of the corporation are to be administered pursuant to rules promulgated and adopted in accordance with the Administrative Procedure Act. (R.S. 51:2312)

### LEDC Programs

- ! BIDCO (Business and Industrial Development Corporation) Investment Program – This program provides for a match or co-investment in certified BIDCO's with at least \$2 million in private capital.
- ! Contract Loan Program – For businesses that have a contract with a local, state, or federal government entity for no more than one year, this program could provide a loan participation in conjunction with a loan guarantee to a bank for loans that range from \$1,000 to \$1 million.
- ! EX-IM Bank City/State Program – This program allows LEDC to be a preferred lender with the US EX-IM Bank and to serve as a loan facilitator for export loans for small and medium-sized Louisiana businesses.
- ! Micro Loan Program – This program provides loan guarantees for businesses for loans between \$5,000 and \$50,000.
- ! Small Business Linked Deposit Program – Businesses interested in lowering their interest rates on existing business loans which have created or saved jobs could benefit from this program. Interest rates may be lowered anywhere from 1% to 4% on no more than \$200,000.
- ! Small Business Loan Program – This program provides loan guarantees or loan participation to banks for small and medium-sized Louisiana businesses. Guarantees may be up to 75%, depending on dollar amounts, and loan participation may be up to 40%.
- ! Small Business Loan Program for Small and Emerging Business – This program is similar to the small business loan program but is geared primarily toward businesses that have been impaired historically due to diminished capital and credit opportunities. Guarantees may be up to 90%, and loan participation may be up to 50%.
- ! Specialty BIDCO Investment Program – Similar to the BIDCO Investment Program, this program is geared toward certified specialty businesses with at least \$1 million in private capital.
- ! Venture Capital Co-Investment Program – This program provides for a co-investment of up to one-fourth of the round of investment not to exceed \$500,000 with any qualified venture capital fund with at least \$7.5 million in private capital. (R.S. 51:1921-1935)

#### LEDC PROGRAMS

- ! Business and Industrial Development Corporation (BIDCO) Investment Program
- ! Contract Loan Program
- ! EX-IM Bank City/State Program
- ! Micro Loan Program
- ! Small Business Linked Deposit Program
- ! Small Business Loan Program
- ! Small Business Loan Program for Small and Emerging Businesses
- ! Specialty BIDCO Investment Program
- ! Venture Capital Co-Investment Program
- ! Venture Capital Match Program

- ! Venture Capital Match Program – This program allows LEDC to provide a match investment from Louisiana venture capital funds for Louisiana businesses who have at least \$5 million of private investment. (*R.S. 51:1921-1935*)

### **OTHER STATE AGENCIES INVOLVED IN ECONOMIC DEVELOPMENT**

A number of state agencies other than the Department of Economic Development impact the state's economy, including the following:

#### **Department of Culture, Recreation and Tourism**

- ! The Department of Culture, Recreation and Tourism (DCRT) houses programs relative to the arts and historic preservation, state parks and museums, and tourism. DCRT interfaces with DED in administering the tax exemption for restoration of structures in a downtown, historic, or economic development district. DCRT's office of tourism is specifically required to cooperate with DED to assist it in its inducement program for industrial location and expansion by providing information on the state's recreational and cultural resources and attractions.

#### **Department of Education**

- ! Small Business Development Centers – These 15 centers located at universities throughout the state provide counseling, training, technical assistance, and information to persons who plan to start a small business or who presently operate a small business. (*R.S. 17:1809, 1810, and 1812*)

#### **Department of Environmental Quality**

- ! Environmental Pre-permit Meetings – Any company applying for an initial permit may request DEQ to schedule a pre-permit review meeting to acquaint businesses with the rules and regulations applicable to their particular business.
- ! Louisiana Technical Assistance Program – This is a nonregulatory, multi-media program located at the University of New Orleans that helps businesses find ways to voluntarily reduce toxic chemicals and hazardous and non-hazardous waste. (*R.S. 30:2061-2062*)
- ! Small Business Assistance Program – DEQ's Office of Air Quality can provide technical assistance and engineering consultation to help small businesses in complying with air emissions-control requirements. (*R.S. 30:2061-2062*)

#### **Louisiana Community Development Authority Industrial Revenue Bonds**

This authority can issue tax-exempt bonds on behalf of small manufacturing companies that locate in the state and create jobs. The program is geared toward manufacturers that seek \$10 million or less to build or upgrade facilities.

#### **Louisiana Public Facilities Authority**

This authority is Louisiana's statewide multi-purpose bond issuer, which issues bonds and various other debt to finance industrial and economic development projects, essential programs

## **ECONOMIC DEVELOPMENT**

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for state and local governmental units, and educational facilities. The authority also provides technical assistance to Louisiana communities and businesses on creative loan packaging.

### **Department of Revenue**

The Department of Revenue handles administration of a number of financial incentives, including the following:

- ! Advance Payment of Sales Taxes – Manufacturers may receive full sales tax refunds for purchases of raw materials used directly in the manufacturing process.
- ! Corporate Jobs Tax Credit Program – In lieu of taking advantage of the industrial property tax exemption or enterprise zone benefits, corporations may take advantage of a one-time tax credit for each net new job created at the start of a new business or the expansion of an existing one. These credits range between \$100 and \$225 for each new employee. (*R.S. 47:34*)
- ! Inventory Tax Credit Program – Manufacturers, distributors, and retailers are allowed a credit against certain state corporate income and corporate franchise taxes for the amount of local inventory taxes paid. Unincorporated persons engaged in similar businesses may be granted the credit against their personal state income taxes. (*R.S. 47:6006*)
- ! Louisiana Capital Investment Tax Credit Program – This program provides an annual 5% credit of a project's capital costs to be used against the company's franchise tax liability. (*R.S. 51:2771*)
- ! Pollution Control Devices and Systems Sales Tax Refund Program – This program excludes pollution-control devices and systems from the state's sales/use tax.
- ! Qualified Recycling Equipment Program – All purchases made between September 1, 1991 and December 31, 2000, of qualified recycling equipment to be used in this state shall be entitled to a credit against income and franchise tax liability in an amount equal to 20% of the cost of the equipment less the amount of any other tax credits received for the purchase of the equipment. (*R.S. 47:6005*)

### **Secretary of State**

- ! First Stop Shop for Business Program – This program is a “licensing information center” for prospective small business owners. It provides a central point of contact for state government requirements and directs the individual to the proper local licensing and taxing authorities, as well as to state and quasi-governmental agencies, by providing a customized licensing/permit checklist. (*R.S. 36:746; 49:229*)

### **State Market Commission Loan and Loan Guaranty Program**

Any firm engaged in the marketing or processing of Louisiana farm products may apply for a loan for the purpose of acquiring, constructing, or equipping any agricultural plant. These loans can be used for operation capital, market development costs, and product inventories. (*R.S. 3:401-426*)

**LOCAL GOVERNMENTAL AGENCIES INVOLVED IN ECONOMIC DEVELOPMENT**

- ! Freeport Laws – These laws are administered by the parish assessor and allow property tax exemptions on the following items (*Const. Art. VII, §21(D)*; *R.S. 47:1951.1-1951.3*):
- Goods imported into the U.S., if the goods are held on the public property of a port, docks of the common carrier in which they entered the state, or held in public or private storage in their original containers.
  - Goods held for export outside the state or the U.S., if the goods are held on the public property of a port, docks of a common carrier, or held in other storehouses.
  - Goods in public or private storage that are in transit through the state. The point of origin and final destination must both be outside Louisiana, and the goods must remain in the original containers.
- ! Industrial Development Boards – These boards can issue revenue bonds for manufacturing, industrial, or other enterprises. The bonds proceeds can be used to acquire and develop sites, construct and equip buildings, buy pollution abatement equipment, and purchase hotels and office buildings. (*R.S. 51:1151-1165*)

**WORKFORCE DEVELOPMENT**

For over a decade the legislature has struggled with the problems resulting from the state's disjointed approach to the training and placement of its citizens in the workforce. Historically federal, state, and local funding and participation had flowed through myriad agencies with little or no coordination or communication between programs.

Prior to 1997, the state had no coherent plan for developing the state's workforce and aligning those efforts with economic development. No state of the art information system existed to describe for the state's citizens the full range of career opportunities available to them and the array of education and training opportunities they could pursue. No system captured the jobs available in which industries, where they occurred, at what levels of compensation, and what skills and competencies those jobs required.

Then a booming economy heightened demand for qualified employees. With unemployment at an all-time low, real wages improved, new business starts increased, and new high-wage jobs came on line every day. At the same time, rapid unprecedented changes in the workplace required workers to learn new and different skills to ensure their employability. The state's disconnected job training system could not turn out highly skilled workers fast enough to meet the expansion and replacement needs of the state's businesses and industries. Nor could it provide companies and workers with access to cutting-edge training technologies and models to learn new skills.

In 1997, a frustrated Joint House and Senate Committee on Labor and Industrial Relations introduced a sweeping reform measure. The resulting enactment into law of Act No. 1 of the 1997 Regular Session created the Louisiana Workforce Commission and designated that body by law to serve as the review and policymaking body for all issues relating to workforce development education and training services within the state. Under the provisions of this

## ECONOMIC DEVELOPMENT

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statute, the governor charged the commission with transforming current approaches for providing workforce education and training into a systems approach which is based on the following concepts:

- C customer focused
- C performance based
- C market driven
- C streamlined
- C locally operated
- C focused on the work ethic.

Simultaneously, the U.S. Congress enacted the Workforce Investment Act of 1998, under which the state will align, though not consolidate, fourteen major workforce education and development programs in a unified state plan. The state Departments of Labor, Social Services, Education, and Public Safety and Corrections, as well as the Board of Regents have all participated in the development of the unified state plan for the state's emerging workforce development system. The new federal legislation, and specifically the unified state plan gives additional impetus to the state's transformation of its workforce development system to produce a world class workforce.

The state's existing network of programs and providers is largely a function of federal funding and target populations, each with its own set of characteristics and challenges. Historically, public sector training has focused on job placement for the disadvantaged, with a strong emphasis on the hardest to serve. As a result, many employers are wary of hiring graduates of publicly subsidized programs. Commission members and participants are working together to change both practice and perception and have begun ratcheting up public sector investment in workforce education and training and serving as a catalyst to increase employer investments in developing the state's workforce.

While Louisiana had the nation's third worst poverty rate and the second largest gap between rich and poor, in 1997, this state closed that gap at a rate faster than all but three other states. Louisiana has reduced its welfare rolls from 63,000 to 39,000 cases; its welfare-to-work plan was the first approved in the nation. Louisiana is one of 11 states participating in a National Governor's Association study to learn demand-side training and "work first" strategies.

Although the *1998 CFED Development Report* gave Louisiana a grade of D in economic development and an F in development capacity, the *Report* said the state can "boast of one of the nation's most structurally diverse economies and the 11th largest rate of increase in new companies formed." Manufacturing employment is on the rise in Louisiana. According to the publication, *State Rankings of 1998*, our state had the seventh highest average manufacturing hourly wage in the nation in 1997, \$14.75 per hour, and the third highest average weekly manufacturing wages at \$668.18. Our state will focus resources on occupations of promise and value-added industries identified by the new occupational forecasting system which came online in December 1998. This plan parallels Louisiana's plan for economic development. Aligning our workforce and economic development not only makes good sense; it is good public policy.

Louisiana's total job growth is expected to increase by about 1.6 percent annually over the next five years. This growth rate is projected to be slightly higher than the overall U.S. job growth rate of 1.2 percent. Although Louisiana's job growth is expected to exceed that of the U.S., it

is projected to fall short of the overall job growth rate of all the states in the Southeastern U.S. The overall job growth in the Southeastern U.S. is projected to be about 2.1 percent annually over the next five years. Personal income, a major measure of wealth creation, is projected to annually increase in inflation-adjusted dollars by 2.0 percent over the next five years in the United States. Louisiana is projected to have its personal income annual increase in inflation-adjusted dollars of 1.7 percent. Inflation-adjusted total personal income for all states in the Southeast is projected to annually increase by 2.2 percent, outstripping growth in the U.S. and Louisiana. Hence, the growth picture for Louisiana is somewhat mixed: that is, higher job growth than the U.S., but falling behind in the relative growth in both personal income and job growth for the southeastern economy as a whole.

Over the next several years, Louisiana is projected to add about 29,000 new jobs annually to the state's economy. Service employment is projected to add the most jobs increasing by about 12,000 annually during this period, followed by retail trade with about 6,400 jobs annually. Construction and manufacturing employment are each projected to add about 3,000 new jobs. Transportation, communications and utilities are projected to add about 1,600 jobs annually; overall government job growth is projected near that level, and wholesale trade is projected to increase by 1,400 jobs annually.

Louisiana's economy has fully recovered from the disastrous recession of the late 1980s. Louisiana's job growth, although healthy, is modest when compared to many of its regional competitors. The state's population growth, however, has not recovered to pre-recession growth levels, resulting in increased problems of skilled labor shortages. These shortages will hamper overall economic development efforts, and as suggested, will skew job growth to lower paying, less regionally competitive jobs. This is projected to put a drag on the state's personal income growth, as suggested in the personal income forecast. Therefore, in order to alter this trend and increase the potential for a higher personal income growth, ***linking job training to economic development must be a critical state priority.***

## VISION 2020

Vision 2020 is a new master plan for statewide economic development developed by the Louisiana Economic Development Council. The plan is a challenge to make Louisiana into a place with a vibrant, balanced economy; a fully engaged, well-educated workforce; and a quality of life that places it among the top ten states in the nation in which to live, work, visit, and do business. The plan has three main goals. First, Louisiana is to become a *Learning Enterprise*, a place where all citizens continually pursue educational achievement, including higher test scores for secondary students and continuing education for our workforce. Second, Louisiana's economy should be driven by a diverse and thriving set of technology-intensive industries with an emphasis on utilizing state colleges and universities as sources for technology and commercialization. Third, by the year 2020, Louisiana should rank among the top ten states in the nation in standard of living indicators.

Each of these goals will be measured by specific benchmarks that will be monitored annually in a report to be submitted to the governor and particular members of the legislature.





# STATE AND LOCAL GOVERNMENT IN LOUISIANA: AN OVERVIEW 2004-2008 TERM

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<b>203</b>	<b>Commissioner of Insurance</b>
<b>204</b>	<b>Insurance Rating Commission</b>
<b>205</b>	<b>Department of Insurance</b>
<b>206</b>	<b>Agencies and Associations</b>
<b>206</b>	<b>Property Insurance Association of Louisiana (PIAL)</b>
<b>207</b>	<b>Louisiana Citizens Property Insurance Corporation</b>
<b>207</b>	<b>Insurance Guaranty Association (LIGA)</b>
<b>208</b>	<b>Louisiana Property and Casualty Insurance Commission</b>
<b>208</b>	<b>Louisiana Health Care Commission</b>
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<b>209</b>	<b>Health Insurance Issues</b>
<b>211</b>	<b>Compulsory Automobile Liability Insurance-Uninsured Motorist</b>
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*House Legislative Services*

## Part VIII. Insurance

In 2002, Louisianians spent approximately \$17 billion in insurance premiums; in addition, over 1,700 insurance companies transacted business in Louisiana during that year. In the Fiscal Year 2002-2003, the Department of Insurance collected \$174,828,000 in premium taxes from insurance companies for the state general fund. The federal McCarran-Ferguson Act, enacted in 1945, clarified that the primary jurisdiction for regulation of “the business of insurance” lies with the states. While this jurisdiction has been somewhat eroded by subsequent federal laws and jurisprudence, insurance remains a business primarily regulated by the states.

### Commissioner of Insurance

Louisiana’s commissioner of insurance is a constitutional office that was created in 1960. The office is held by a statewide elected official whose term is concurrent with that of the governor. Article IV, Section 11 of the Louisiana Constitution states:

*There shall be a Department of Insurance, headed by the commissioner of insurance. The department shall exercise such functions and the commissioner shall have powers and perform duties authorized by this constitution and provided by law.*

Since the constitution does not authorize any powers or duties for the department or the commissioner, the commissioner and the department have only those powers and duties provided by the laws adopted by the legislature. This was a result of a struggle in the Constitutional Convention in 1973 between those who wanted to add language to constitutionally empower the commissioner to regulate insurance and those who opposed creating a “Czar” over the insurance industry. The fundamental conflict was over whether the Insurance Rating Commission, appointed

## INSURANCE

by the governor, or the elected commissioner of insurance would regulate insurance rates. The supporters of the insurance rating commission prevailed and we have a commissioner whose powers are limited to that which the legislature grants by law.

This schism in the authority of the commissioner and the department is evidenced by the number of independent public and quasi-public agencies that are legislatively empowered to independently regulate and control certain insurance matters. Some of those agencies are the Insurance Rating Commission, the Louisiana Health Insurance Association, the Insurance Guaranty Association, and the Louisiana Life and Health Insurance Guaranty Association.

The body of law which governs the Louisiana insurance industry is the Louisiana Insurance Code, Title 22 of the Louisiana Revised Statutes of 1950. These laws empower the commissioner and the Department of Insurance to regulate the more ordinary business of insurance companies. (See *Department of Insurance below*).

Article IV, Section 20 of the constitution additionally authorizes the legislature by two-thirds vote to make the commissioner of insurance an appointed position and merge or consolidate the department with other offices.

### Insurance Rating Commission

Created in 1948, the Insurance Rating Commission is a seven-member commission of which six members are appointed by the governor. The commissioner of insurance is the seventh member and serves as the ex officio chairman. The statutory purpose of the commission is found in R.S. 22:1402 which states, in part:

*The purpose of this Part is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate, or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of this Part. Nothing in this Part is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit or encourage, except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices.*

The commission has authority over property and casualty insurance rates. Its prior-approval authority over property and casualty rates is limited to rate changes outside of the 10% statutory limit. The commission has no authority to independently change or set any rates. The power to impose rates on insurers is reserved to the legislature as evidenced by the Omnibus Premium

#### Louisiana Premiums Written by Type of Coverage for the Year Ended December 31, 2002

<u>Type of Coverage</u>	<u>Number of Companies</u>	<u>Written Premium</u>
Property & Casualty	526	6,005,849,544
Life & Health	610	8,704,466,639
Surplus Lines	125	514,674,704
Fraternal	33	88,076,782
HMO	9	1,590,508,104
Title	14	71,845,343
Other*	444	Not Available
<b>TOTAL</b>	<b>1,761</b>	<b>16,975,421,116</b>

\*Other includes:

- 24 Auto Clubs
- 1 State Group Benefits
- 21 Group Self Insurance
- 3 Guaranty Fund Companies
- 27 Vehicle Mechanical Breakdown
- 0 Multiple Employer Welfare Arrangements
- 15 Nonprofit Companies
- 6 Property Residual Value
- 4 Reinsurance
- 203 Risk Purchasing
- 3 Risk Retention
- 6 Independent Review Organization
- 3 IRMA

Reduction Act of 1997 (*Act No. 1476*) that required a ten percent reduction in the premiums for motor vehicle liability insurance and a twenty percent reduction for uninsured motorist coverage that excludes noneconomic losses.

A controversial body, the commission survived the loss of its powers to the Department of Insurance only by the gubernatorial veto of SB No. 1107 in 2001.

In 2003 the legislature limited the commission's rating authority in Act 351 by allowing insurance companies to adjust their rates for property and casualty insurance (auto and home-owners) by up to 10% above or below their existing rates without prior approval by the commission. This marked a victory for free-market proponents and a radical departure from the state's traditional regulatory scheme. The commission's prior approval authority applies only to rate changes outside of the 10% limit.

The regulatory authority of the commission extends to the rates for the following insurance: fire, inland marine, title, vehicle, certain aircraft, liability, workers' compensation, burglary and forgery, glass, fidelity and surety, and steam boiler and sprinkler leakage. Excluded from its regulatory authority are rates for the following insurance: certain reinsurance, vessels that are not inland marine, certain aircraft, and health and accident.

### **Department of Insurance**

The Department of Insurance is comprised of the following programmatic offices, in addition to the commissioner's office and the office of management and finance:

#### **! Office of Property and Casualty**

The office of property and casualty is responsible for the regulation of insurance rates, the review of insurance rates, the licensing of insurance rating organizations, and such additional duties and functions as are assigned by the commissioner of insurance. (*R.S. 36:688(B)*) Specifically, the office staffs the Louisiana Insurance Rating Commission.

#### **! Office of Financial Solvency**

The office of financial solvency is responsible for examining and monitoring the financial condition of all companies approved to conduct the business of insurance in this state. Specifically, the office performs financial and market conduct examinations, analyzes financial statements and other required filings of insurers, determines the adequacy of reserve liabilities established by insurers, ensures that reserve requirements are maintained and insurer investments are made in accordance with state law, and validates and maintains the recordation of securities pledged to the commissioner as deposits for the protection of Louisiana policyholders. The goal of the office is to detect those adverse financial and other conditions that will allow for early identification of financially troubled insurers.

#### **! Office of Receivership**

The office of receivership manages all insurance companies placed in conservation or receivership. In conservation, a failing insurer must have the office's approval for all transactions. Receivership includes rehabilitation, in which the department takes title to a failing insurer's assets, and liquidation, in which the office determines creditors and citizens due to receive the assets of an insolvent company.

### ! **Office of Licensing and Compliance**

The office of licensing and compliance regulates the licensing and monitors the market conduct of individuals and companies engaged in the insurance business in this state. Specifically, it conducts examinations of insurance producers (agents, brokers, and solicitors); issues producer and company licenses; resolves consumer complaints and provides consumer education programs and services relative to property and casualty insurance and life insurance and annuities; approves policy forms for use by insurers; investigates reported incidences of suspected insurance fraud and performs background checks for purposes of producer and company licensing; and assists minorities by establishing educational and information services to foster a greater awareness of opportunities available in the insurance industry.

### ! **Office of Health Insurance**

The office of health insurance is responsible for health insurance pilot programs as established by the legislature, research and development of rules and regulations to implement health insurance reform legislation, research and development of health insurance reform measures that broaden the availability of health insurance coverage in the state, liaison activities for the Department of Insurance with other state and national agencies for policy on health insurance, preparation of proposed health insurance reform legislation by the department, general research and implementation issues concerning health insurance policy, and additional duties and functions as assigned by the commissioner. (*R.S. 36:694*) Specifically, the office assists and protects consumers with health care coverage needs, reviews health insurance related contract forms, provides senior citizens with health-related counseling through the Senior Health Insurance Information Program (SHIIP), and reviews health maintenance organization (HMO) provider networks and accreditation bodies for quality assurance.

### **Agencies and Associations**

A number of boards and commissions are placed in the Department of Insurance, in addition to the Insurance Rating Commission. These include the boards of directors of the Property Insurance Association of Louisiana (PIAL); the Louisiana Property and Casualty Insurance Commission; and the Louisiana Health Care Commission.

Although not agencies of the state, the Insurance Guaranty Association (LIGA), the Louisiana Citizens Property Insurance Corporation, the Life and Health Guaranty Association (LLHIGA), and the Louisiana Health Plan must also be mentioned in any discussion of insurance activities in this state.

### **Property Insurance Association of Louisiana (PIAL)**

Every insurance company in Louisiana that writes fire insurance is required to adhere to the rates adopted by the Property Insurance Association of Louisiana. The rates adopted by PIAL are subject to approval by the Louisiana Insurance Rating Commission and individual insurers may deviate from the rates with the approval of the commission. PIAL inspects and assesses various types of risk that are rated by schedule for property damage insurance. It is the filing organization for rates, rules, and forms for homeowners, dwelling fire, commercial fire, and farm owners insurance. The association surveys municipal areas and issues fire protection

grading for those areas. It is fully funded by the members of the association through an assessment apportioned according to direct premiums received by each member.

The board of directors of the PIAL consists of 17 members as follows: nine members elected by the membership; the commissioner of insurance; two members appointed by the commissioner; a representative of the Louisiana Insurance Rating Commission; a representative of the Professional Insurance Agents of Louisiana; a representative of the Independent Insurance Agents of Louisiana; the chairman of the House Insurance Committee (ex officio); and the chairman of the Senate Insurance Committee (ex officio).

### **Louisiana Citizens Property Insurance Corporation**

Created in 2003 by Act No. 1133, the Louisiana Citizens Property Insurance Corporation is a private, nonprofit corporation created to operate the residual market insurance programs known as the FAIR Plan and the Coastal Plan to provide essential property insurance for commercial and residential properties in this state. (*R.S. 22:1430 et seq*) The corporation is governed by a 15-member board of directors consisting primarily of representatives of the insurance industry appointed by the governor, the commissioner of insurance, and chairmen of the House and Senate insurance committees. All insurance companies that write property insurance on a direct basis in Louisiana are required to be members of the plans. The corporation is funded by the premiums from the insurance issued by the plans and an assessment against the member companies to cover any shortfall between revenues and exposure. The member companies are assessed on a percentage of their total written property premiums. The corporation may impose emergency assessments, issue bonds, pledge assessments, and eventually depopulate the plans.

The FAIR Plan was established by the legislature in 1968 for the purpose of making certain there is adequate fire, extended, vandalism, windstorm, hail storm, and homeowners property insurance in designated areas in Louisiana. The FAIR (Fair Access to Insurance Requirements) Plan is a “high risk” pool aimed primarily at inland areas and inner cities where it is difficult to obtain property insurance through ordinary insurance markets.

The Coastal Plan, created by the legislature in 1969, is a “high risk” pool for property insurance for those coastal areas of Louisiana designated by the Louisiana Insurance Rating Commission. It is almost identical to the FAIR plan except that it serves a different geographical area of the state, the coastal area below the Intercoastal Waterway.

### **Insurance Guaranty Association (LIGA)**

The Insurance Guaranty Association is more commonly referred to as “LIGA” or the Louisiana Insurance Guaranty Association. LIGA was created by the legislature in 1970 as a “private nonprofit unincorporated legal entity” that may not be deemed an agency of the state for any purpose. It receives no money from the state general fund.

LIGA was created to pay the outstanding claims against property and casualty insurance companies who have become insolvent. LIGA does not cover the following direct insurance: life, health and accident, title, disability, mortgage guaranty, financial guaranty, vehicle breakdown, and ocean marine and certain insurance involving investment risks and credit risks.

Any licensed property and casualty insurer who transacts insurance business in Louisiana is required to be a member of LIGA as a condition of doing business in this state. All members

are subject to an annual assessment of up to two percent of the direct written premiums in Louisiana. In addition to the assessment, LIGA receives from the Department of Insurance the investment income and proceeds from the liquidation of insolvent insurance companies. These revenues provide the funds to pay the outstanding claims against the insolvent insurance companies.

LIGA's board of directors consists of nine persons as follows: two consumer representatives appointed by the commissioner of insurance, one Louisiana resident appointed by the president of the Senate, one Louisiana resident appointed by the speaker of the House, and five persons appointed by member insurers who are approved by the commissioner of insurance.

### **Louisiana Property and Casualty Insurance Commission**

The Louisiana Property and Casualty Insurance Commission was created by the legislature in 2003 to replace the Council on Automobile Insurance Rates and Enforcement (CAIRE). The commission is to review and examine the availability and affordability of property and casualty (auto and homeowners insurance) insurance in Louisiana. The commission is also to provide oversight and recommendations regarding programs and the enforcement laws that affect automobile insurance rates. The commission submits an annual report of its recommendations on laws and projects affecting property and casualty insurance to the governor, the commissioner of insurance, and the legislature. The 21-member commission includes: representatives of state and local law enforcement agencies; the attorney general; the assistant secretary of the office of motor vehicles; the executive director of the Louisiana Highway Safety Commission; representatives of agent organizations; members of the House and Senate Insurance Committees; consumer representatives; and the commissioner of insurance.

### **Louisiana Health Care Commission**

The Louisiana Health Care Commission, created by the legislature in 1992, serves as a policy and planning board that undertakes comprehensive review of health care and health insurance issues facing the state. The commission assesses the availability and affordability of health care in the state by examining such topics as the rising costs of health care and the formation and implementation of insurance pools that better assure citizens the ability to obtain health insurance at affordable costs and that encourage employers to obtain health care benefits for their employees. The commission also studies the adequacy of consumer protections in health insurance and addresses state implementation issues related to national health care reform initiatives. The commission annually makes recommendations on reform of the health and health insurance systems in Louisiana to the commissioner of insurance who subsequently submits a report to the legislature on such matters.

The commission is comprised of 45 members representing a broad spectrum of interests, including health insurers, health care providers, and community leaders, as well as representatives of consumer interests, the governing boards of state colleges and universities, the House and Senate Insurance Committees, the commissioner of insurance, and the Department of Health and Hospitals.

### **Louisiana Health Plan**

The Louisiana Health Plan was originally created by the legislature in 1990 as the Louisiana Health Insurance Association. Its initial purpose was to administer the High Risk Insurance Pool, a major medical health benefits plan which provides health insurance policies to

Louisianians who are uninsurable in the private health insurance market, often because of pre-existing medical conditions. Premiums for the high risk pool are currently 150% of the average premium charged by the top five individual health insurance carriers providing coverage in Louisiana. In addition to premium income, the high risk pool is funded by a mandated service charge on hospital admissions and outpatient surgery in Louisiana, to be paid by patients' insurers, and an annual legislative appropriation of two million dollars. Enrollment in the high risk pool is restricted by the amount of funding for the pool.

During the 1997 Regular Session, the Louisiana Health Plan was additionally authorized to administer the state's HIPAA pool. This pool is the state's alternative mechanism for implementing the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). The purposes of that law are to make insurance coverage from one group employment situation to another group more "portable" and to provide coverage to those persons who move from an eligible group into the individual insurance market. Premiums for the HIPAA pool are currently 200% of the average premium charged by the top five individual health insurance carriers providing coverage in this state. In addition to premium income, the HIPAA pool is funded by assessment of insurance carriers and health maintenance organizations doing business in Louisiana. As enrollment in the HIPAA pool expands, the Louisiana Health Plan is authorized to increase the amount of this assessment accordingly.

The Louisiana Health Plan is governed by a 14-member board of directors, including representatives of health insurance carriers, hospitals, physicians, consumers, and the House and Senate Committees on Insurance.

### **Louisiana Life and Health Guaranty Association (LLHIGA)**

The Louisiana Life and Health Guaranty Association, commonly known as LLHIGA, was created by the legislature in 1991. Modeled on LIGA, LLHIGA is a "private nonprofit unincorporated legal entity" that may not be deemed an agency of the state for any purpose and that receives no money from the state general fund.

LLHIGA was created to pay the outstanding claims against life and health insurance companies who have become insolvent. Any licensed life or health insurer, not including a health maintenance organization or a self-insured employee benefits plan, who transacts insurance business in Louisiana is required to be a member of LLHIGA as a condition of doing business in this state. All members are subject to an annual assessment of up to two percent of the direct written premiums in Louisiana. In addition to the assessment, LLHIGA receives from the Department of Insurance the investment income and proceeds from the liquidation of insolvent insurance companies. These revenues provide the funds to pay the outstanding claims against the insolvent insurance companies.

LLHIGA's ten-member board of directors consists of eight representatives of member insurers, appointed subject to the approval of the commissioner of insurance, one Louisiana resident appointed by the president of the Senate, and one Louisiana resident appointed by the speaker of the House.

### **Health Insurance Issues**

Louisiana continues to be ranked among the top five states in the nation with the highest rates of uninsured residents: 18.8% of Louisiana's citizens, almost 800,00 persons, do not have health



insurance and are not covered under the federal Medicaid or Medicare programs. Finding a way to make health insurance accessible and affordable to this population, which is often defined as the “working poor”, remains a critical issue to be further addressed by the legislature. Many of the uninsured rely upon Louisiana’s state and local public hospital system for their medical care, which will place additional strains on that system in upcoming years when federal funding for states’ uncompensated care costs is to be restricted. Extension of health coverage to low-income children under the Louisiana Children’s Health Insurance Program (LaCHIP) is an important first step in helping to reduce Louisiana’s high uninsured rate. During the 2003 Regular Session, the legislature authorized three measures to address the problem of the uninsured. As the following initiatives are still in various stages of development and funding, it is not yet possible to assess what their impact on the state’s uninsured rate will ultimately be.

**Act No. 424** authorizes creation of a pilot insurance program to be known as “LaChoice”. The program would provide eligible small employers with affordable private insurance health insurance products through a state-subsidized stop loss pool or reinsurance. LaChoice is currently under development by the Department of Insurance and is slated for implementation in 2005.

**Act No. 528** authorizes creation of the Louisiana Safety Net Insurance Program. This law allows qualified private insurers and the Office of Group Benefits (OGB) to issue “minimal benefit hospital and medical insurance policies”. These policies would be exempt from state-mandated insurance benefits. OGB has issued a notice of intent to contract to conduct a pilot program in Baton Rouge and the surrounding parishes; negotiations are also underway with private insurers with regard to issuing these policies in the private market.

**Act No. 813** authorizes the Department of Health and Hospitals (DHH) to seek federal approval of a Medicaid HIFA waiver. The waiver would allow the use of Medicaid - Disproportionate Share funds to help low-income workers buy into job-based coverage and to extend limited Medicaid benefits to low-income parents and childless adults currently ineligible for Medicaid and unable to access employer-sponsored insurance. DHH is in the process of developing this waiver, aiming to submit the application to the federal government next fall and begin implementation in Fiscal Year 2004-2005.

The issue of mandating certain health insurance benefits also remains a volatile one for the legislature. Current state law requires health insurers and/or health maintenance organizations (HMOs) to cover such diverse services and medical conditions as screenings for breast, cervical, or prostate cancer, bone mass measurement, immunizations, diabetes, cleft lip and cleft palate, certain clinical cancer trials, and certain severe mental illnesses. Alternatively, the legislature has in the past rejected mandates for coverage of contraceptives and gastric bypass surgery. The debate over mandated benefits generally centers on consumer protection versus cost. Proponents argue that mandates are necessary to ensure adequate benefits for consumers and that, to the extent that they provide for early detection and treatment of illnesses, some of these mandates may decrease the ultimate cost of health care and health insurance. Opponents, however, contend that mandated benefits offset any consumer gains by raising the cost of health insurance, making it less affordable and ultimately increasing the number of the uninsured. It is also important to note that state law requires that an impact report be prepared by the Legislative Fiscal Office for any bill requiring mandated health benefits or mandated offering of health benefits. This impact report is to “be factual, brief, and concise, and... provide an estimate in dollars of the immediate and long-range fiscal effect of the measure. If

no dollar estimate is possible, the impact report shall set forth the reasons therefor. An impact report shall not contain reference to the merits of the measure.” (R.S. 24:603.1) During the 2003 Regular Session, the legislature placed a five-year moratorium on health insurance mandates (*Act No. 1115*). However, the moratorium is only statutory; therefore, it could be superceded by a subsequently enacted mandate as a later expression of legislative will.

With the advent of managed care, assuring the quality of medical care provided by health plans has also developed as a legislative concern. As the issue of patient rights awaits action by congress, the legislature has enacted a number of important consumer protections such as guaranteeing direct access to obstetricians/gynecologists, prohibiting the unreasonable denial of emergency care claims, and prohibiting incentives to restrict, delay or deny medically necessary care. In addition, legislation was enacted in 1999 which establishes standards for insurers and HMOs determining the medical necessity of health care services and requires internal and independent reviews of denials of requests for coverage. It is important to note, however, that certain employer-sponsored plans are exempt from certain facets of state regulation of insurance, pursuant to the federal Employee Retirement and Income Security Act (ERISA). Specifically, ERISA preempts states from regulating employer-provided health coverage when the employer “self-insures”, that is, when the employer assumes all or some of the financial risk for the care provided to its employees rather than simply purchasing coverage from an insurer. Thus, many state consumer protection laws are preempted and inapplicable to the estimated one million Louisiana citizens covered by self-insured plans, which represent forty percent of all health plans in Louisiana.

The issue of accessibility to health insurance has also been a subject of legislative debate. Louisiana law currently provides for guaranteed continuation of group insurance, guaranteed renewal of health insurance coverage, limitations on preexisting medical condition exclusions from coverage, prohibitions on discrimination by group plans against individuals based on health status (modified community rating), and guaranteed portability protections. While many of these protections emanate from the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), other protections, such as modified community rating, predate that federal legislation. The Louisiana Health Plan is particularly important in this regard as it not only provides access through the High Risk Pool to health insurance coverage for those individuals unable to obtain such coverage in the private market, but also administers the HIPAA pool to fully implement that federal legislation in Louisiana.

### **Compulsory Automobile Liability Insurance – Uninsured Motorist**

An important legislative issue regarding automobile insurance has been compulsory liability insurance. Between 1952 and 1977, Louisiana law only required that a person furnish proof of liability insurance *after* an accident. Failure to do so resulted in the suspension of driving privileges and vehicle registration. Since the mid-1950's, many attempts were made in Louisiana to pass legislation requiring pre-accident security, modeled after the Massachusetts compulsory liability insurance laws. The Massachusetts program, which originated in the 1920's, required the operator of a motor vehicle to provide proof of insurance coverage before he could register his vehicle. The program also provided for criminal penalties for operating an unregistered vehicle.

Act No. 115 of the 1977 Regular Session enacted R.S. 32:861 et seq. which required a motor vehicle owner to declare that he had the minimum insurance coverage (\$5,000/\$10,000) before

obtaining a license plate or inspection sticker. In addition to loss of registration and driving privileges, criminal penalties were added for making a false declaration.

In 1984, pursuant to Act No. 212, the legislature added the requirement that proof of insurance be in the vehicle while it is being operated on a public road or highway. Failure to provide the proof of insurance when requested by a law enforcement officer would result in penalties if the proof of insurance was not provided within ten days.

Since 1984, the penalties for failure to have proof of insurance in the vehicle have been increased in order to induce compliance. In 1992, pursuant to Act No. 805, the seizure of license plates was added as a penalty for noncompliance.

In 1997, pursuant to Act No. 1486, the legislature authorized the **impoundment** of a vehicle when the driver could not produce the required proof of insurance upon the request of a law enforcement officer. It is the opinion of the Department of Insurance that the impoundment law will eventually be a factor in bringing down insurance rates. However, some insurance companies opine that it may have the effect of increasing rates because it forces more high risk drivers into the insured pool. With regard to enforcement, it is reported that in New Orleans alone in the first five months of enforcement (June through October, 1999), 2,657 cars have been impounded because of lack of insurance. As much as 40% to 50% of the impounded vehicles remain unclaimed by the owners.

Additionally in 1997, with the enactment of Act No. 1476 (“**No Pay, No Play**”), an uninsured motorist who is the victim in an automobile accident is prohibited from collecting the first \$10,000 of personal injury and the first \$10,000 of property damages in a civil action. Under this same Act, a 10% reduction in automobile liability rates was required and is now in effect. The legislature included these provisions in the same Act in order to guarantee a reduction in automobile premiums while reducing the exposure of liability by insurance companies to motorists who are uninsured.

The latest study by the Insurance Research Council (IRC) released in 2001 shows that 8% of Louisiana motorists are uninsured. This is well below the national average of 14% and the highest rate of 32% in Colorado.

### **Automobile Insurance Rates**

For many years, insurance rates for automobile liability insurance policies in Louisiana have ranked in the top ten states in the United States. The primary factors for the high rates are population and traffic density in the urban areas, driver behavior, poor roads, excess litigation, and state regulations. In recent years, the legislature has been addressing many of these factors with tort reforms, DWI laws, automobile safety laws, and drivers’ education requirements for new drivers.

Act No. 351 in 2003 took the very radical step of allowing insurance companies to change their rates without the prior approval of the Louisiana Insurance Rating Commission by as much as 10% above or below their current rate. Insurance companies had complained that the pre-approval system under the rating commission did not allow them to respond quickly to market changes. They were always reluctant to seek lower rates for fear that the commission would not allow them to increase those rates when needed. In very recent years, not only have rates been

high, but also, many insurance companies were losing money, leaving the state, or refusing to write policies. Louisiana was in a crisis of both affordability and availability of automobile liability insurance. Act No. 351 is modeled after the “Flex Band” system of some other states, particularly South Carolina. Since South Carolina adopted the flex band system in 1999, rates have decreased and more insurers have come into the state to write automobile liability policies.



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## Part IX. Culture, Recreation and Tourism

Responsibility for preserving, cultivating, and interpreting Louisiana's cultural and natural heritage lies primarily with the Department of Culture, Recreation and Tourism (CRT). In addition, the department has an obligation to promote aspects of Louisiana's unique heritage in order to attract visitors to the state. In the language of the Revised Statutes,

*The department shall be responsible for the development, maintenance, and operation of library, park, recreation, museum, and other cultural facilities; the statewide development and implementation of cultural, recreational, and tourism programs; and planning for the future leisure needs of the people. (R.S. 36:201(B))*

In meeting these responsibilities, the department contributes to the quality of life of Louisiana citizens both directly, by providing recreational and educational opportunities, and indirectly, by contributing to the economic health of the state through income generated by the tourism industry.

### ADMINISTRATION

The administrative structure of CRT follows closely the standard arrangement utilized in most of the executive branch departments. (*See discussion of the executive branch in Chapter 1.*) As noted therein, however, CRT is unique in the way its officers are appointed. The secretary, the undersecretary, and three of the five assistant secretaries are appointed by and serve at the pleasure of the lieutenant governor.

The assistant secretaries of the offices of the state library and the state museum are exceptions to this appointment procedure.

The state librarian serves as the assistant secretary of the office of the state library. (R.S. 36:207(A)(2)) The state librarian is selected, subject to consent of the Senate, by the board of commissioners of the State Library of Louisiana, and he serves as the executive secretary of that board. His term of office is five years and he is subject to removal only for cause and only by unanimous vote of the board of commissioners. (R.S. 25:5, 6)

The position of assistant secretary of the office of state museum is filled by the director of the Louisiana State Museum who is selected by the board of directors of the Louisiana State Museum. The director serves as the executive and administrative officer of the board, but is also subject to the control and supervision of the secretary of CRT. The museum director is subject to removal only for cause and can be removed only after a hearing of the board. (R.S. 25:343)

### OFFICES

Most of the programmatic activity of the Department of Culture, Recreation and Tourism is executed through one of its five offices: the office of the state library, the office of the state museum, the office of state parks, the office of cultural development, and the office of tourism.

#### ! Office of the State Library

One of the primary duties of the office of the state library is to provide planning, coordination, and leadership to and for the various local, regional, and school libraries around the state so as to provide every citizen with access to free, high quality library service. The office also has its own library and collection (in Baton Rouge) which includes specialized materials for supporting the business of state government. The office coordinates intrastate and interstate interlibrary loans and establishes and supervises library services in the states health and correctional facilities.

The office is also responsible for the Louisiana State Documents Depository. Under the depository system, certain libraries are designated as depositories of documents produced by state agencies and each agency must supply copies of documents it produces to the depository library. Thus, citizens have access to any state document from a single source rather than having to find the agency which produced each specific document. (R.S. 25:121 *et seq.*)

Through the years, the state library has been involved in the literacy effort by purchasing and circulating appropriate materials to public libraries and other literacy providers. Literacy grants have enabled the state library to coordinate and fund statewide volunteer tutor training workshops and to strengthen the adult literacy programs in Louisiana's prison libraries. Additionally, the state library holds an annual book festival to honor Louisiana writers and to present an enjoyable and free opportunity for citizens to hear and meet those authors who contributed to the extraordinary literary heritage of our state.

**Local Government Activity:** In addition to the state library, any city or parish is authorized to establish and operate a public library. In creating a library, a local governing authority is required to create a governing board which is responsible for adopting rules and regulations governing the library and for employing a librarian and other employees. If approved by the voters, the parish or municipality may levy taxes for construction, maintenance, and support of the library. (R.S. 25:211 *et seq.*)

**! Office of the State Museum**

The office of the state museum operates and maintains the Louisiana State Museum, including all buildings, collections, and exhibitions of the Louisiana State Museum complex in New Orleans, and other museums under its jurisdiction. (*R.S. 36:208(C)*) Currently the following properties constitute the state museum complex: the Cabildo, the Presbytere, the Arsenal, the Old U.S. Mint, Madame John's Legacy, and the 1850 House, all of which are located in the New Orleans French Quarter and are designated as national historic landmarks. Additional properties under the jurisdiction of the office of state museum include: the Wedell-Williams Aviation Museum in Patterson, the Old Courthouse Museum in Natchitoches, and the E.D. White Historic Site in Thibodeaux.

Major projects currently being considered or developed by the office include the following:

- C Construction of the new state museum in Baton Rouge, an approximately 60,000 square foot facility slated to open in 2005 that will house the very first truly comprehensive exhibit on Louisiana history.
- C Construction and development of the Cypress Sawmill Museum scheduled to open in Patterson in 2004 that will display exhibits on aviation and the cypress lumber industry.

Additionally, in October 2002, the state museum began a series of free public programming in observance and celebration of the Louisiana Purchase Bicentennial. In October 2003, the state museum unveiled a new exhibit to commemorate the Bicentennial of the Louisiana Purchase entitled "One Nation Under God: The Church, the State, and the Louisiana Purchase". The exhibit provides a unique perspective on the events leading up to and following this momentous occasion in our nation's history. The exhibit is located in the Cabildo which is the site of the Louisiana Purchase transfer and is scheduled to remain open until April 2004.

The office of the state museum also operates outreach services in an effort to serve those who are not able to visit New Orleans or the other museum sites. It has employed a state curator who visits cultural institutions and small museums around the state and offers technical advice and support on matters relating to the preservation and display of historical materials. The office puts together small collections of museum artifacts which travel around the state for display in local libraries and other public facilities. The museum's web site offers several online exhibits which make many aspects of the museum's collections available to citizens around the state.

**! Office of State Parks**

The office of state parks plans, designs, constructs, operates, and maintains a system of parks, natural areas, and recreational facilities and performs the functions of the state relating to outdoor recreation development and trails. (*R.S. 36:208(D)*) In carrying out these functions, the office operates three classes of facilities: state parks, state historic sites, and state preservation areas.



- C “State preservation areas” are those areas of exceptional scenic value which because of their unique characteristics should be preserved for current and future enjoyment.
- C “State historic sites” are those areas which when evaluated on a statewide basis possess historical, cultural, or memorial significance. The principal function of a commemorative area is to preserve and maintain a specific historical, cultural, or memorial theme.
- C “State parks” are natural areas which, when evaluated on a statewide basis, possess outstanding potential for recreation utilization. The natural area must possess outstanding scenic and natural qualities to provide a recreation opportunity of high quality in a natural setting. (*R.S. 56:1684*)

In addition to these general definitions, the statutes set forth size and other criteria which an area must meet in order to be taken into the state parks system. As of late 2003, the office is operating approximately 16 state historic sites and 18 state parks located all around the state. The only state preservation area currently open is the state arboretum in Evangeline Parish.

The office of state parks is guided in the acquisition and development of sites by a fifteen-year master plan. The plan under which the office is currently operating came into effect in 1997 and so will serve as a blueprint for development until 2012. The master plan identifies sites for development of facilities and also includes plans for program development and for increasing public awareness of the parks, historic sites, and preservation areas.

**Local Government Activity:** The office of state parks does *not* operate playgrounds, ball fields, or similar recreation facilities. Responsibility for these is left to local governments. State law authorizes and provides for creation of local recreation districts and many municipalities and parishes have taken advantage of this authority.

### ! Office of Cultural Development

The office of cultural development performs the functions of the state relating to the arts, historical and archaeological preservation, crafts, humanities, cultural heritages and traditions, and related cultural programs and activities. The office also administers the provisions of law relating to the State Capitol Historic District. (*R.S. 36:208(E)*)

Three divisions comprise the office: the division of the arts, the division of historic preservation, and the division of archaeology.

#### **Division of the Arts**

The division of the arts is responsible for state arts programs and state level administration of National Endowment for the Arts programs. The division must provide for promotion of the arts, the cultural enrichment of the people of the state, and the sustenance of artistic activity in and of the state of Louisiana, and provide technical assistance upon request. (*R.S. 25:894*)

The division of the arts administers several grants programs. Nonprofit organizations, educational institutions, and professional artists are eligible to apply for grants. These grants are used to support all areas of artistic endeavor, dance, music, painting, etc. Funds for grants come from state appropriations and from the National Endowment for the Arts.

One of the most popular grants programs is the Louisiana decentralized arts funding program. Funds are distributed to each parish on a per capita basis so that each applicant is competing only with other applicants from his or her parish. The applications are evaluated and grants are awarded by one of eight regional distributing agencies. This process insures that each parish in the state receives some arts funding and local priorities determine how the funds will be spent.

The division also administers the crafts marketing program which is an economic diversification program designed to stimulate the economy by providing marketing assistance to approved craftsmen working in contemporary, revivalist, or traditional crafts. Approved program participants are allowed to use a special "Handmade by Louisiana Craftsmen" logo which has been developed by the office. (*R.S. 25:897-899*)

### **Division of Archeology**

This division, as the name implies, is responsible for archeological concerns of the state. The state archaeologist is the director of the division. Duties of the division include the following:

- C Promulgating rules and regulations concerning the recovery and study of archaeological remains.
- C Maintaining the state archaeological site files, which include site records, field notes, maps, photographs, and reports.
- C Functioning as legal custodian for the state's archaeological artifacts and objects.
- C Implementing activities that will make available to the public information about the historic and prehistoric resources of the state.
- C Serving as the archaeological advisory source for all state agencies by assisting them in evaluating any potential impact of their projects on archaeological resources.
- C Administering those portions of the National Historic Preservation Act relative to archaeology. (*R.S. 41:1603 et seq.*)

### **Division of Historic Preservation**

The division of historic preservation serves as the staff of the appointed state historic preservation officer for federal programs that pertain to historic buildings, structures, and places as such appointment is required by the National Historic Preservation Act. The division also implements state historic preservation policy. More specifically, the programmatic responsibilities of the division include the following:

- C Nominating Louisiana properties to the National Register of Historic Places.

- C Compiling and maintaining a survey of buildings which are over fifty years old.
- C Reviewing applications for the federal historic preservation tax credit program.
- C Developing a comprehensive statewide historic preservation plan.
- C Administering the certified local government program.
- C Administering the federal historic American buildings survey program.
- C Reviewing federal projects and federally assisted or licensed projects for their impact upon historic buildings and places.
- C Reviewing applications for the state historic preservation tax incentive program.
- C Reviewing projects in the State Capitol Historic District.
- C Implementing a program of activities that will make information about the historic resources of the state available to the public.
- C Providing for the management of all Federal Historic Preservation Fund monies and state funds allocated for historic preservation grants.
- C Developing and implementing a program to provide public financial assistance for the preservation and enhancement of designated historic structures. (*R.S. 25:911 et seq.*)

The division of historic preservation also operates the very successful Main Street program as this program has been developed by the National Trust for Historic Preservation. The goals of this program are to rehabilitate the historic buildings in the downtown areas of small towns and to reestablish downtown as an economically viable part of the community. The program attempts to achieve these goals through comprehensive consideration of planning and ordinance review, manager and volunteer training and development, economic development, landscape planning, commercial rehabilitation, building design, real estate development, tourism, and marketing. The division of historic preservation estimates that since 1984, 25 communities have been active in rehabilitating historic buildings in downtown areas. Investments, including private rehabilitation and public improvements, exceed one hundred eighty *billion* dollars and ninety-one dollars have been generated locally for every one dollar invested by the state. In addition, more than 4,933 new jobs have been created by 1,153 new businesses.

**Local Government Activity:** Local governments are authorized to establish historic preservation districts. (*R.S. 25:731 et seq.*) After appropriate study by a committee created for that purpose and after review by any planning or zoning commission, the local governing authority may create a district and establish the regulations which apply within the district. The governing authority is required to create a commission to review all proposed construction, renovation, and demolition work within the district. Generally, unless otherwise provided by the local ordinance, construction, renovation, and demolition of private property within the district is prohibited unless the historic preservation district commission grants a certificate of appropriateness.

**! Office of Tourism**

The primary goal of the office of tourism is to provide for the design, plan, development, and implementation of the promotion of Louisiana's history, culture, art, folklife, recreational and leisure opportunities, natural and scenic resources, transportation, cuisine, attractions, accommodations, and events. It also is responsible for encouraging and assisting local government and private sector development for the promotion of tourism. (*R.S. 51:1254*)

To accomplish this goal, the office is divided into the following four divisions:

**Administration**

This division provides overall leadership to all divisions of the office of tourism as well as direct oversight of activities and promotions of the office. The division's responsibilities include preparing the budget, maintaining accounts, and tracking and monitoring contracts. The goal of the division is to derive the maximum return on investment from the dollars invested in Louisiana tourism and to ensure that all programs of the office are provided support services to accomplish all of their program goals and objectives.

**Marketing**

The mission of this division is to provide advertising, promotion, development, and publicity for the assets of the state; to design, produce, and distribute materials in all media; and to reach as many potential tourists as possible. In order to fulfill its mission, the division engages in such activities as:

- Contracting with a professional advertising agency which implements various strategies for promoting the state. Among these strategies are national and regional print and television ads and foreign language brochures which are distributed at international trade shows and familiarization tours for international visitors and press.
- Assisting local communities in their efforts to preserve and promote their local cultural heritage by facilitating networking with other communities, expanding research efforts, and focusing on authenticity and quality.
- Promoting the state as a destination for conventions and multicultural visitors.
- Utilizing the Louisiana Scenic Byways program to enhance tourism and economic development opportunities for Louisiana citizens. The program also offers an alternative to interstate travel and an up-close experience of Louisiana. Act 999 of the 2003 Regular Session created the Louisiana Byways Commission to preserve, enhance, and promote special roads within the Louisiana Scenic Byways program that offer historical, cultural, scenic, natural, archeological, recreation, and economic resources for the state.
- Serving as the primary resource for journalists and advertising agencies by maintaining an extensive library of slides and publishing a calendar of events.

### **Consumer Information Services**

The consumer information services division combines consumer information/inquiry and research. The consumer information/inquiry section responds to inquiries made by telephone, internet, person-to-person, and by mail. This section provides travel literature and information to prospective travelers to Louisiana. Research provides necessary information to other divisions within the office of tourism. This section collects and disseminates data on Louisiana's travel markets, national and international trends, and advertising effectiveness. Many of the priorities, target markets, and development of marketing tools are driven by the research conducted by this division. The primary objectives of the consumer information services division are the following:

- To respond as quickly and as efficiently as possible to potential visitors' requests for information on Louisiana.
- To measure and improve the effectiveness of the office of tourism's advertising and promotional campaign.
- To monitor state, national, and international travel trends that affect travel and tourism in Louisiana.

Included among the activities of the division are the following:

- Developing profiles of international and U.S. resident visitors to Louisiana.
- Conducting competitive analyses of states competing for the same visitors.
- Testing the effectiveness of tourism advertising by utilizing focus groups and other means.

### **Welcome Centers**

Louisiana's welcome centers, located along major highways entering the state and in two of Louisiana's largest cities, provide safe, friendly environments for visitors to find information about area attractions. They also seek to encourage visitors to spend more time in the state.

The existing welcome centers are currently undergoing renovations to provide a more inviting atmosphere to the exterior of the centers, and additional welcome centers are being built. In April 2003, the I-55 Kentwood Welcome Center was completed. It is a 3,700 square foot facility on the interstate near the border of Tangipahoa Parish, Louisiana and Pike County, Mississippi.

Major projects currently being considered or developed by the division include the following:

- The I-49 welcome center is currently under construction with a scheduled opening date of December 2003. The 3,780 square-foot facility will be on a 7.5 acre tract north of the city of Alexandria at the interstate's Rapides Station interchange.

- The I-10 Butte LaRose welcome center is currently under construction with a scheduled opening date of March 2004. The 3,700 square-foot facility sits on the interstate's Butte LaRose interchange in the middle of the Atchafalaya Trace Heritage Area.
- The I-59 Pearl River welcome center is in the planning phase. An existing welcome center at the site near the intersection of interstate highways 10, 12, and 59 will be demolished, with construction at that site to begin immediately after, taking an estimated 8-10 months. The new center will be about 3,700 square-feet.

Efforts are also currently underway to provide 24-hour security at all welcome centers.

### **C Louisiana Tourism Development Commission**

Within the Department of Culture, Recreation and Tourism, this state agency serves as an advisor to the assistant secretary of the office of tourism and the secretary of the department on matters related to the development and implementation of programs to promote tourism and the historical, cultural, recreational, and scenic legacy of the state. (*R.S. 51:1256-1257*) There are 21 members of the commission, appointed by the governor, who have the following responsibilities:

- Reviewing and advising with regard to the major types of promotion and advertising contracts, prior to their approval.
- Aiding in the formulation of the master plan for tourism development.

### **C Louisiana Tourism Promotion District**

The Louisiana Tourism Promotion district is a special taxing district whose boundaries are coterminous with the state. The purpose of the district is to provide funds to assist the state in the promotion of tourism. The district does this by levying and collecting a sales and use tax limited to three one hundredths of one percent. Specifically, these funds can be used by CRT to purchase out-of-state media advertisements and to promote tourism by other means, provided no funds are used for in-state ads. The maximum amount of generated proceeds that may be transferred to the department for these purposes is \$17.5 million annually. (*R.S. 51:1282-1287*)

### **C Louisiana Retirement Development Commission**

The commission which is in the office of the lieutenant governor (not in CRT) was created as an effort to enhance Louisiana's economic development. This eleven-member commission is charged with promoting Louisiana as a "retirement friendly" state and establishing programs to entice retirees to settle in the state. (*R.S. 51:1317-1319*) Among other things, the commission is responsible for the following:

- Formulating a strategic plan for retirement development.
- Monitoring and evaluating regional retirement initiative pilot programs to develop guidelines that certify various communities as "retirement ready and friendly."

- Approving a marketing strategy to promote Louisiana as a retirement destination.
- Researching and developing programs designed to assist state government, local governments, private sector entities, and nonprofit entities in developing Louisiana as a retirement destination.

### C Recent Tourism Statistics

The tourism industry in Louisiana continues to be one of the fastest growing industries in the state. With increasing numbers of U.S. resident and international visitors to Louisiana, more jobs have been created, and state sales tax revenues derived from this industry have increased. The following are 2001-2002 statistics provided by the office of tourism:

- Total visitors to Louisiana - 21.3 million.
- Total expenditures by visitors - \$8.5 billion.
- State sales taxes generated from visitor spending - \$390 million.
- Employment within the travel industry - 118,000 jobs.

**Local Government Activity:** State law also provides for the creation of parish tourist commissions to promote tourism within their respective parishes. (*R.S. 33:4754 et seq.*) Often known as convention and visitors bureaus, tourist commissions generally have two revenue sources which support their promotional activities. First, each is authorized to levy a hotel occupancy tax. The maximum rate for this tax is set independently for each parish but in most cases is three or four percent of the amount charged for the room. Many tourist commissions also receive a rebate of the portion of the state sales tax which is collected from the hotels in their respective jurisdictions.

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*House Legislative Services*

## Part X. Gaming

The legislature has authorized several forms of gaming as exceptions to the general crime of gambling. (R.S. 14:90) This part provides a brief overview of the provisions of law regarding gaming. The House Legislative Services staff prepares annually a comprehensive compilation of all laws governing gaming.

### LOUISIANA CONSTITUTION

Const. Art. XII, §6 governs the authority of the legislature with respect to gambling.

Const. Art. XII, §6(A) provides that the legislature may provide for the creation of a state lottery.

Const. Art. XII, §6(B) provides: “Gambling shall be defined by and suppressed by the legislature.” This Paragraph provides for the general grant of authority to the legislature regarding gambling.

Const. Art. XII, §6(C) was added pursuant to approval of the voters on September 21, 1996.

- Const. Art. XII, 6(C)(1)(a) and (b) provide for gaming, gambling, or wagering referendum elections. Both provisions require a vote of the electors of a parish before new gaming, gambling, or wagering or gaming, gambling, or wagering which is new to the parish can be conducted in the parish.
- Const. Art. XII, §6(C)(2) provides for referendum elections pertaining to riverboats. It requires the approval of the electors of the parish voting in an election called for that purpose before any additional riverboats could berth in a parish conducting riverboat gaming in 1996, or before an existing licensed riverboat could change its berthing site within a parish.



## **GAMING**

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- Const. Art. XII, §6(C)(3) provides: “The legislature may at any time repeal statutes authorizing gaming, gambling, or wagering.”
- Const. Art. XII, §6(C)(4) provides: “Notwithstanding Article III, Section 12, or any other provision of this constitution, the legislature by local or special law may provide for elections on propositions relating to allowing or prohibiting one or more forms of gaming, gambling, or wagering authorized by legislative act.”

### **LOCAL OPTION ELECTIONS**

#### **1996 Local Option Election**

*Statutory Provisions:* R.S. 18:1300.21-1300.23.

*1996 Local Option Election:* Act No. 57 of the 1996 First Extraordinary Session (R.S. 18:1300.21) provided for a local option election on gaming issues throughout the state. Act 57 provided that a proposition appear on the ballot in every parish to determine whether the conducting of gaming activity should be permitted in the parish. The election was conducted November 5, 1996. The electors of each parish voted on the type of gaming which was authorized by law (as of May 9, 1996) to be conducted in their parish. All parishes voted on the video draw poker device operations. Parishes bordering designated waterways (*as provided in R.S. 27:43(B)(1)*), voted on riverboat gaming activities. Orleans Parish had an additional ballot question pertaining to the operation of a land-based casino.

*Election Results:* Thirty-three parishes voted not to permit the operation of video draw poker devices and thirty-one parishes voted to permit their operation. Fifteen parishes voted to not to permit riverboat gaming activities and twenty-eight parishes voted to permit riverboat gaming. No parish in which a riverboat was located, at the time of the election, voted to discontinue riverboat gaming. Orleans Parish voted to permit the operation of a land-based casino. (*See chart on pages 230 for vote by parishes on video poker and riverboat gaming.*)

#### **Additional Gaming Elections**

*Constitutional Requirements:* Const. Art. XII §6(C)(1)(a) requires a vote of the people of a parish prior to conducting a new form of gaming, gambling, or wagering in that parish. Const. Art. XII §6(C)(1)(b) requires a vote of the people of a parish prior to conducting gaming in that parish which has not been previously conducted in the parish.

*Act of Legislature Required to Authorize Election:* R.S. 18:1300.22(A) requires an act of the legislature to authorize the calling of an election as required by Const. Art. XII §6(C).

### **LOUISIANA GAMING CONTROL LAW**

#### **Louisiana Gaming Control Board**

*Statutory Provisions:* R.S. 27:1-3, 11-30.2, 31 and 32.

*Board Composition and Terms:* The Louisiana Gaming Control Board consists of nine members and two ex officio members who are United States citizens and are domiciled and eligible to vote in the state of Louisiana. At least one member shall be appointed from each congressional

district and such appointments shall, as nearly as practicable, be made in a manner that is representative of the population of the state. All such appointments are subject to confirmation by the Senate. The commission members serve six-year staggered terms and shall be eligible for reappointment only once.

*Regulatory Authority:* The board has all regulatory authority, control, and jurisdiction, including investigation, licensing, and enforcement, and all power incidental or necessary to such regulatory authority, control, and jurisdiction over all aspects of gaming activities and operations as authorized pursuant to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, the Louisiana Economic Development and Gaming Corporation Act, the Pari-mutuel Live Racing Facility Economic Redevelopment and Gaming Control Act and the Video Draw Poker Devices Control Law. Further, the board has all regulatory, enforcement, and supervisory authority which exists in the state as to gaming on Indian lands as provided in the provisions of Act No. 888 of the 1990 Regular Session of the Legislature and Act No. 817 of the 1993 Regular Session of the Legislature.

### **Riverboat Gaming**

*Statutory Provisions:* R.S. 27:41-114.

*Regulatory Authority:* Louisiana Gaming Control Board.

*Limitations on Number of Licenses/License Term:* Not more than fifteen licenses to conduct gaming activities on a riverboat may be issued for the state as a whole and not more than six licenses may be issued for operation from any one designated waterway. The term of a riverboat gaming license is five years.

*Designated Rivers and Waterways:* The designated rivers and waterways upon which riverboat gaming may be conducted are the Mississippi, Red, Calcasieu, Mermentau, and Atchafalaya Rivers, Bayou Segnette within the city limits of Westwego, the Mississippi River Gulf Outlet, Bayou Bienvenue, Lake Pontchartrain, Lake Maurepas, Lake Charles, the Intracoastal Canal, except the portion within Terrebonne and Lafourche Parishes, and, if approved by a referendum in a parish bordering the waterway, the Sabine River north of the Toledo Bend Reservoir Dam. Act No. 1299 of the 1995 Regular Session provided that on and after June 20, 1995, the addition of a waterway to the list of designated waterways will be effective in a parish bordering that waterway only if approved by a referendum election in the parish, which may be ordered at any time by the parish governing authority.

### **Land-Based Casino**

*Statutory Provisions:* R.S. 27:201-286.

*Regulatory Authority:* The Louisiana Gaming Control Board.

*Casino Operating Contract:* The Louisiana Gaming Control Board is authorized to enter into a casino operating contract with a casino operator to conduct casino gaming operations at the official gaming establishment, to be located on the site of the Rivergate Convention Center in Orleans Parish. The term of the contract and any option to extend or renew may not exceed a total of twenty years primary term and one ten-year renewal option.

## **GAMING**

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### **Video Draw Poker Devices**

*Statutory Provisions:* R.S. 27:301-324.

*Regulatory Authority:* The Louisiana Gaming Control Board.

*Categories of Licenses:* There are three categories of persons who may be issued licenses for the operation of video draw poker devices:

- A person who has been granted a Class A-General retail permit or a Class A-Restaurant permit to sell alcoholic beverages for consumption on the premises of a restaurant, bar, tavern, cocktail lounge, club only, or such an establishment in a motel or hotel may be issued a license for the placement of not more than three video draw poker devices in the establishment.
- A person who owns a state racing commission licensed pari-mutuel wagering facility or an offtrack wagering facility may be issued a license for the placement of an unlimited number of video draw poker devices at the facility. There is no limit on the number of video draw poker devices which may be placed at a licensed pari-mutuel wagering facility or an offtrack wagering facility.
- A person who owns a qualified truck stop facility may be issued a license for the placement of video draw poker devices at the facility. The maximum number of devices which may be placed at a particular facility depends upon the amount of average monthly fuel sales, ranging from a maximum of fifty devices for a facility with high sales to a maximum of thirty-five devices for a facility with sales above the statutory minimum level.

### **Slot Machine Gaming at Live Horse Racing Facilities**

*Statutory Provisions:* R.S. 27:351-392.

*Regulatory Authority:* The Louisiana Gaming Control Board.

*Eligible Facility:* “Eligible facility” means no more than one facility in St. Landry Parish, Bossier Parish, Orleans Parish and Calcasieu Parish at which the Louisiana State Racing Commission has licensed the conduct or at which the commission has approved the future licensing of the conduct of not less than eighty days within a consecutive twenty-week period each year of live horse race meetings.

## **LOUISIANA LOTTERY**

*Statutory Provisions:* R.S. 47:9000-9081.

*Amendment to Constitution:* In 1990, the voters of the state ratified a constitutional amendment to authorize the legislature to provide for the creation and operation of a state lottery and to create a special corporation for that purpose. In the same year, the legislature created the state lottery, administered by the Louisiana Lottery Corporation.

*Regulatory Authority:* The Louisiana Lottery Corporation administers the state lottery.

*Board of Directors; Composition:* The affairs of the corporation are administered by a board of directors composed of nine members appointed by the governor, subject to Senate confirmation. The board determines and operates all aspects of the state lottery, including the types of games conducted, the number and amounts of prizes, the licensing of lottery retailers, and the purchase or lease of necessary goods and services.

## **HORSE RACING AND OFFTRACK WAGERING**

*Statutory Provisions:* R.S. 4:141-227.

*Commission Composition:* The commission is composed of nine members, one person from each congressional district and two members at large, appointed by the governor, subject to Senate confirmation. Each member serves at the pleasure of the governor.

*Regulatory Authority:* The Louisiana State Racing Commission licenses and regulates the operation of race tracks and the conducting of horse racing and also licenses and regulates the operation of offtrack wagering facilities. .

*Local Option Election:* No horse racing meet can be conducted in a parish unless the conducting of horse racing is first approved at a referendum election in the parish. Likewise, before a license can be granted for an offtrack wagering facility in any parish, the voters of that parish must give their approval in a referendum election held for that purpose. Only pari-mutuel race tracks conducting race meetings during the 1986-1987 racing season are eligible to apply for a license to operate offtrack wagering facilities.

*Location of Horse Tracks:* Presently, there are four horse racing tracks in the state: Delta Downs in Vinton, Evangeline Downs in Lafayette (*moving to St. Landry Parish*), the Fairgrounds in New Orleans, and Louisiana Downs in Bossier City. There are fourteen offtrack wagering facilities in the state.

## **CHARITABLE GAMING**

*Statutory Provisions:* R.S. 4:701- 739.

*Local Governing Authority:* The governing authority of any municipality or parish may determine whether to permit charitable organizations to conduct certain charitable gaming activities within its limits. The kinds of games of chance permitted by law include raffles, bingo or keno, pull-tabs, electronic video bingo, and fund raising events generally known as “Las Vegas Nights” or “Casino Nights”.

*Regulatory Authority:* The licensing and regulatory authority over charitable organizations, manufacturers and distributors of equipment and supplies, and commercial lessors is exercised by both the local governing authority and the Department of Revenue, office of charitable gaming. This regulatory authority includes verification of the eligibility and qualifications of applicants, control and supervision of the games of chance held, operated or conducted under a license, and verification of the use and distribution of proceeds from the gaming operations. The office functions to insure that net proceeds of charitable games of chance are contributed to bona fide charitable causes, to prevent infiltration of organized crime or professional gambling into charitable gaming and to provide both public and local law enforcement education and awareness pertaining to the purposes of charitable gaming laws and regulations.

## GAMING

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The office provides assistance and education to local law enforcement agencies and the general public and issues state licenses to charitable gaming organizations as well as commercial lessors leasing facilities for the conducting of charitable gaming activities.

### INDIAN GAMING

*Statutory Provisions:* 25 U.S.C. 2701 et seq.

*Indian Gaming Regulatory Act:* Federal law, the Indian Gaming Regulatory Act, provides in pertinent part that federally recognized Indian tribes may conduct on their reservation lands any gaming activities that are permitted by state law. Since the legislature has authorized a wide range of gaming activities, including casino gaming, qualified Indian tribes in this state have commenced these gaming operations.

*Regulatory Authority:* The state does not have any direct control or regulatory authority over Indian gaming but does have the right and responsibility to enter into a gaming compact with a qualified Indian tribe. The Louisiana Gaming Control Board has all regulatory, enforcement, and supervisory authority which exists in the state as to gaming on Indian lands as provided in the provisions of Act No. 888 of the 1990 Regular Session of the Legislature and Act No. 817 of the 1993 Regular Session of the Legislature.

*Federally Recognized Indian Tribes:* There are four federally recognized tribes in Louisiana: the Chitimacha, with tribal lands in St. Mary Parish, the Coushatta, with tribal lands in Allen and Jefferson Davis Parishes, the Tunica-Biloxi, with tribal lands in Avoyelles Parish, and the Jena Band of Choctaw which is located principally around the city of Jena but has tribal members located in Grant, LaSalle and Rapides Parishes.

### VIDEO DRAW POKER AND RIVERBOAT GAMING LOCAL OPTION

#### Parish-by-Parish Results of November 5, 1996 Election on Video-Draw-Poker Question

Yes	No
Acadia	Allen
Assumption	Ascension
Avoyelles	Beauregard
Bossier	Bienville
Caddo	Caldwell
Calcasieu	Catahoula
Cameron	Claiborne
DeSoto	Concordia
East Carroll	East Baton Rouge
Iberville	East Feliciana
Jefferson	Evangeline

Yes	No
Jefferson Davis	Franklin
Lafourche	Grant
Madison	Iberia
Orleans	Jackson
Plaquemines	Lafayette
Pointe Coupee	LaSalle
Red River	Lincoln
St. Bernard	Livingston
St. Charles	Morehouse
St. Helena	Natchitoches
St. James	Ouachita
St. John the Baptist	Rapides
St. Landry	Richland
St. Martin	Sabine
St. Mary	St. Tammany
Tensas	Tangipahoa
Terrebonne	Union
Webster	Vermilion
West Baton Rouge	Vernon
West Feliciana	Washington
	West Carroll
	Winn

**Parish-by-Parish Results of November 5, 1996 Election on  
Riverboat Gaming Question**

Yes	No
Acadia	Allen
Ascension	Catahoula
Assumption	Concordia
Avoyelles	Grant
Bossier	Iberia
Caddo	Livingston

**GAMING**

Yes	No
Calcasieu	Natchitoches
Cameron	Rapides
East Baton Rouge	St. Charles
East Carroll	St. Tammany
East Feliciana	Terrebonne
Iberville	Vermilion
Jefferson	Vernon
Jefferson Davis	Winn
Madison	
Orleans	
Plaquemines	
Pointe Coupee	
Red River	
St. Bernard	
St. James	
St. John the Baptist	
St. Landry	
St. Martin	
St. Mary	
Tangipahoa	
Tensas	
West Baton Rouge	
West Feliciana	

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## Part XI. Public Officials and Public Employees

Matters relating to public employees and public officials are of inherent importance to the operations of state and local government. Efforts to control growth of state government inevitably give attention to the number of officials and employees. Civil service issues and personnel management practices are of key importance in assuring an able and productive workforce. Political activity by state employees is a related issue. Benefits of public employees, such as compensation, retirement, and health care benefits, and matters relating to dual officeholding and dual employment are other important issue areas relating to public officials and employees.

### COMPENSATION

Compensation and related benefits, such as health care benefits and retirement, paid from state and federal funds to state officials and employees comprise approximately 18% of the total state budget each year. Recruiting, compensating, and retaining highly competent personnel to perform the services provided by the state, while at the same time maintaining state fiscal responsibility, is a difficult but crucial task.

The state constitution provides that the wages and hours of classified employees will be set by the State Civil Service Commission, but will be effective only after approval by the governor (*Const. Art. X, §10*). Thus, compensation of the employees in the classified service is established in a pay plan approved by the governor which is not subject to legislative approval or veto. (See *Pay Plan under State Civil Service below*; also see *State Police Service below*.)



State law provides for the salaries of the eight statewide elected officials; that is, the governor, the lieutenant governor, the secretary of state, the attorney general, the treasurer, and the commissioners of agriculture, insurance, and elections. Legislation enacted in 1995 specified the governor's salary at \$95,000 per annum and provided that it cannot be increased except by legislative Act. The same legislation also removed provisions for specific amounts for the other seven officials and provided that the salary of each statewide elected official, except the governor, shall be equal to the salary of the chief justice of the state supreme court as of October 1, 1995. (The salary of the chief justice on that date was \$85,000 per annum.) The salary for members of the legislature is set by law at \$16,800 per year and members also receive a \$6,000 per year unvouchered expense allowance which is established by law. However, R.S. 42:1481 through 1486, enacted in 1999 and amended in 2000, provides for the Compensation Review Commission which is required to make recommendations to the legislature relative to the salaries and compensation of statewide elected officials and members of the legislature 60 days prior to the commencement of regular sessions in odd-numbered years. The recommendations take effect on July first of the year recommended if approved by the legislature by Concurrent Resolution adopted according to the same procedures required for the passage of a bill, including the favorable vote of the majority of the elected members of each house but not including submission to the governor. The Compensation Review Commission submitted compensation recommendations for members of the legislature and statewide elected officials in 2001 and 2003, neither of which were approved by the legislature.

The salaries of justices and judges have been set by statute. However, R.S. 13:42 through 47, enacted in 1995, provides for a Judicial Compensation Commission which is required to make recommendations relative to judges' salaries to the legislature 60 days prior to the commencement of regular sessions in even-numbered years. Any increase in salaries may be enacted by the legislature only after submission of the recommendations and must be approved by a favorable vote of the majority of the elected members of each house, whether in an odd-numbered or even-numbered year, or at any extraordinary session if included within the objects of that session. (Another 1995 Act provides a five percent pay differential for the chief justice of the supreme court and chief judges of the courts of appeal.)

Other elected officials whose compensation is provided by statute include the public service commissioners, clerks of court, district attorneys, assessors, coroners, and sheriffs. Therefore, legislative amendment, enactment, or repeal can change these salaries; however, the constitution prohibits decreasing the compensation of elected officials during the term for which they are elected. (*Const. Art. V, §21, Art. VI, §12, and Art. X, §23*)

With respect to the unclassified service, Title 36 of the Louisiana Revised Statutes (the Executive Reorganization Act) generally provides that the salaries of the officers of executive branch departments appointed by the governor are fixed by the governor, but they cannot exceed the amount approved by the legislature in session (usually through the appropriations process). (Salaries of department officers in the statewide elected officials' departments are set by the statewide elected official, subject to the same limitation.) Salaries of other unclassified employees are established by the appointing authorities within their respective agencies and are subject to review by the legislature during the budget review and appropriations processes.

## STATE CIVIL SERVICE

### Composition

The state civil service is established by the constitution (*Const. Art. X, §1*). It includes all persons holding offices and positions of trust or employment in the employ of the state, of any instrumentality thereof, and of any joint state/federal, state/parochial, or state/municipal agency, regardless of the funding source for such employment. This provision of the constitution has been the basis for including the employees of a number of local entities in the state civil service, including employees of port commissions, levee boards, and housing authorities. Specifically excluded from the state civil service are members of the state police service, established by constitutional amendment in 1990, and persons holding offices and positions of any parish or municipality or of any municipal board of health.

More information regarding the Department of State Civil Service, including its rules and job listings, is available on the department's website (<http://www.dscs.state.la.us>).

### Classified and Unclassified Service

The state civil service includes the unclassified and the classified service (*Const. Art. X, §2*). Persons not included in the state unclassified service are in the classified service. The constitution specifically lists those officers and employees who are placed in the state unclassified civil service. The constitution permits the state civil service commission to add additional positions to the unclassified service and to revoke those positions added.

Unclassified employees are civil servants, but they are not covered by the civil service protection and prohibitions of the constitution or by the regulations of the civil service system. Instead they are subject to the authority of the employing agency and procedural and substantive due process protections of the federal and state constitutions. They are also subject to law and, in the executive branch, to executive orders of the governor. Classified employees are covered by the civil service protection and prohibitions of the constitution and by regulations of the State Civil Service Commission.

#### Officials and Employees in the Unclassified State Service

The constitution places the following officers and employees in the state unclassified civil service:

- (1) Elected officials and persons appointed to fill vacancies in elective offices.
- (2) The heads of each principal executive department appointed by the governor.
- (3) Registrars of voters.
- (4) Members of state boards, authorities, and commissions.
- (5) One private secretary to the president of each college or university.
- (6) One person holding a confidential position and one principal assistant or deputy to any officer, board, commission, or authority mentioned in (1), (2), (3), or (4) above, except civil service departments.
- (7) Members of the military or naval forces.
- (8) Teaching and professional staffs, and administrative officers of schools, colleges, and universities of the state, and bona fide students of those institutions employed by any state agency.
- (9) Employees, deputies, and officers of the legislature and of offices of the governor, lieutenant governor, attorney general, and of all offices provided for in Article V of the constitution (judicial branch).
- (10) Commissioners of elections, watchers, and custodians and deputy custodians of voting machines.
- (11) Railroad employees whose working conditions and retirement benefits are regulated by federal agencies in accordance with federal law.

Source: *Const. Art. X, Sec. 2*

(See Tables in *Employment Statistics* beginning on page 241 for statistics on state employment).

### State Civil Service Commission

The State Civil Service Commission, established by the constitution, has seven members who serve overlapping six-year terms (*Const. Art. X, §3*). The governor appoints six members from nominees submitted by the presidents of private colleges and universities in the state, with no more than one appointment from any congressional district. One member is elected by the classified employees of the state.

#### ! **Appointments**

Permanent appointments and promotions in the classified state civil service may be made only upon certification of the applicant or employee under a general system developed by the commission based upon merit, efficiency, fitness, and length of service, as ascertained, as far as practicable, by competitive examination. A classified employee may not be discriminated against because of political or religious beliefs, sex, or race. Civil service rules extend this constitutional prohibition to other nonmerit factors. An employee with permanent status may not be subjected to disciplinary action except for cause. Employees may appeal actions to the commission. The burden of proof is on the agency to prove charges against the employee, except in cases of discrimination. The commission has exclusive power to hear and decide all removal and disciplinary cases, subject to review by the courts of appeal (*Const. Art. X, §§7, 8, 12*).

#### ! **Political Activity**

Members of the civil service commission and officers and employees in the classified service are prohibited by the constitution from participating in political activity (*Const. Art. X, §9*). (See also ***Political Activity in Classified State Civil Service & State Police Service*** on page 256).

#### ! **Administration/Rules**

The constitution vests the state civil service commission with broad and general rulemaking and subpoena powers for the administration and regulation of the classified service, including the power to adopt rules for regulating employment, promotion, demotion, suspension, reduction in pay, removal, certification, qualifications, political activities, employment conditions, compensation and disbursements to employees, and other personnel matters and transactions; to adopt a uniform pay and classification plan; to require employee training and safety programs; and generally to accomplish the objectives and purposes of the merit system of civil service. Commission rules have the force and effect of law. They cannot be changed by the legislature, since the authority of the commission to adopt rules is constitutionally granted.

Any rule or determination by the civil service commission affecting wages and hours of employment has the effect of law and becomes effective only after approval by the governor (*Const. Art. X, §10*). A new pay plan becomes effective only with the governor's approval.

Though the constitutional status of the commission's rulemaking authority exempts it from legislative review of administrative rules under the Administrative Procedure Act, civil service rules provide for submission of rules for review by the appropriate legislative

committees prior to adoption and also provide for fiscal impact statements for proposed rules.

! **Department of State Civil Service**

The Department of State Civil Service (*Const. Art. X, §6*), one of the twenty departments within the executive branch, is headed by the director of civil service, who is a classified employee, and serves as the administrative arm of the State Civil Service Commission. The department implements the commission's rules and policies with respect to employment, wages, examinations, job classifications, appeals, training, and related matters.

! **Funding**

The constitution requires the legislature to make adequate annual appropriations to the state civil service system to enable it to implement efficiently and effectively the constitutional civil service provisions. The constitution prohibits gubernatorial veto of the annual legislative appropriation to the state civil service system (*Const. Art. X, §13*).

! **Pay Plan**

Prior to 2002, there were two pay schedules for classified state employees: the Medical Schedule, which was revised in September of 2003, and the General Schedule, which was divided into five new schedules in 2002 and 2003. The five new schedules are Protective Services, Technician and Skilled Trades, Scientific and Technical, Social Services, and Administrative. These new schedules raised the maximum rates of pay for each schedule. were the result of extensive efforts by the Department of State Civil Service to assure that state salaries are competitive. Since 1989, the number of job classifications in the pay plan has been reduced from 3,778 to 2,450. A merit increase under the current plan is equal to four percent and may be awarded to an employee whose performance rating is at least "Meets Expectations" (as long as the employee has not already achieved the maximum salary of his pay range). The most recent general increase in the pay plan affecting all employees was in 1990. (*Also see **Recent Issues** under **Public Personnel Management** on page 246.*)

## **STATE POLICE SERVICE**

A constitutional amendment adopted in 1990 took state police officers out of the state civil service system and created the state police service as a separate personnel system for these state employees (*Const. Art. X, §41 et seq.*). Because of this, the state police also have a separate pay plan.

Constitutional provisions for the state police service are similar to those for the state civil service system. Composition of the State Police Commission is similar to that of the State Civil Service Commission. Like state civil service, the state police service is divided into the classified and the unclassified service. The State Police Commission determines those positions which shall be in the unclassified service, and it may provide that any such position shall become classified. Certifications for appointments and promotions are made by the director. Political activity prohibitions are similar to those for state civil service employees. Unlike state civil service, commission rules and determinations concerning wages and hours are subject to appropriation of sufficient funds by the legislature (*Const. Art. X, §48(C)*). Another difference is that, with

## **PUBLIC OFFICIALS AND PUBLIC EMPLOYEES**

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respect to appeals, the power to decide removal and disciplinary cases is reserved to the commission; a referee may take testimony only.

The State Police Commission proposed a new pay plan for state police which was approved by the governor and became effective on June 24, 2002.

More information regarding the state police service and the State Police Commission, including rules and employment information, is available on the State Police Commission's website (<http://www.spc.state.la.us>).

### **STATE EMPLOYMENT: INFORMATION; CONTROL; STAFFING LEVELS**

Issues relating to the number of state employees have attracted the attention of legislators and governors over the last couple of decades. State government reorganization in the 1970's provided better tools to report and oversee employment levels. In addition, the legislature has taken other steps to provide for such reporting and oversight and various methods have been tried to reduce employment levels.

The General Appropriation Act each year specifies the number of authorized positions for the unit or program. In addition, it may include other general provisions about changes in employment numbers. It also permits the commissioner of administration to increase the number of authorized positions approved for each department, agency, or program when sufficient documentation or other necessary adjustments is presented and the request is deemed valid. He is specifically authorized to increase the number for a department, agency, or program when funds or functions are transferred to the department, agency, or program (provided sufficient documentation is presented and the request is deemed valid.) The Act limits the total increase in the number of personnel in state government approved by the commissioner to 350. It also requires Joint Legislative Budget Committee approval of any request for an increase in positions which reflects an annual aggregate increase in excess of 25 employees for any department, agency, or program.

Overall total full-time equivalent state employment has grown by about 19,002 which equates to approximately 1.5% per year over the last 15 years. Over the years, various methods have been used to control state employment levels. Steps that can be used to reduce or control growth of state employment include executive freeze orders, creation of legislative employment pools, early retirement incentives, budget reductions, and attrition. Freeze orders are executive orders by the governor to freeze positions which become vacant. These orders, intended to reduce employment levels by attrition, establish specific procedures for justification and approval of the filling of any position becoming vacant. Such freeze orders are authorized by statute (*R.S. 42:375*). When incentives for early retirement were used they were limited to persons applying for retirement prior to a specified date and included provisions to limit the filling of positions becoming vacant due to early retirement.

### **Personnel Practices Act**

The State Personnel Practices Act was enacted in 1982 to provide for personnel information and hiring and compensation controls for executive branch employees. The Act, as such, is no longer on the books, but most of its provisions were incorporated into the revision of laws governing the budget process. Thus, the Department of State Civil Service and the division of administration must jointly develop and maintain an automated information system to serve as

the official state personnel and position records, with immediate system access for the budget office, state civil service, and the legislative fiscal office. The system is required to include a current record of personnel tables for each budget unit, program, and subprogram. Each budget unit must submit a personnel table annually with its budget request which must include authorized, estimated, and requested positions organized according to programs or subprograms and other specified contents. (See accompanying list ***Contents of Personnel Tables for Budget Units***)

The number of authorized positions for a budget unit or program is specified annually in the General Appropriation Act. The budget office is required by law to establish in the information system the number of authorized positions for each budget unit, program, or subprogram, in accordance with the Appropriation Act. A budget unit head may adjust the classifications of these positions, with limitations. Only a personnel transaction which conforms with the authorized positions may be completed, otherwise it may be completed only if the table is changed and necessary approvals granted. The law requires all personnel transactions to be submitted to the director of state civil service for approval (except unclassified positions

within a statewide elected official's department, but civil service must be notified of these transactions). The state civil service director may not approve a personnel transaction for a position paid from the salaries continuing category that is not in the approved personnel table. Civil service may reclassify any position when given sufficient documentation, if sufficient funds are available in the salaries continuing category. The division of administration must update the personnel tables to reflect actions during the fiscal year. (See R.S. 39:83 - 86)

The commissioner of administration is required by law to monitor all personnel transactions affecting authorized positions. If he finds that they are adversely affecting mission performance or the balance of the salaries continuing category, he must notify the budget unit head and the legislative fiscal office and require that all modifications to the personnel table be individually approved by the budget office. If he disapproves a transaction, the commissioner must inform the budget unit head of the reason. The reasons may be only a finding that a reclassification is not warranted, that insufficient funds have been appropriated for personnel in the budget category, or that the action was not consistent with agency program goals. However, funds or positions may be transferred as otherwise provided by law.

The division of administration is required to develop and implement a central automated payroll system for all budget units or programs, designated to issue payroll checks only to employees who occupy positions approved by civil service, and to monitor all transactions which result in the payment of salaries or wages. It must report on transactions not in conformance with the appropriation acts and report annually to the legislature on the status of the payroll system until

#### Contents of Personnel Tables for Budget Units

- ! Number of authorized positions for the prior fiscal year and the number classified and unclassified.
- ! Number of authorized positions in the initial operating budget and in the existing operating budget for the current fiscal year, and the number classified and unclassified.
- ! Number of positions estimated for the continuation budget for the next fiscal year and the number classified and unclassified.
- ! Number of positions requested for the next fiscal year and the number classified and unclassified.
- ! Actual amount expended for salaries continuing for authorized positions for the prior fiscal year.
- ! Total amount budgeted for salaries continuing for authorized positions in the initial operating budget and in the existing operating budget for the current fiscal year.
- ! Estimated amount for salaries continuing for the positions estimated for the continuation budget for the next fiscal year.
- ! Total amount requested for salaries continuing for requested positions for the next fiscal year.
- ! All of the above information for positions paid from other charges.

Source: R.S. 39:32

the system is operational. When the system is completed, the Department of State Civil Service is required to report by department and budget unit detailing the variances by position and incumbent between the actual payroll and the approved personnel table.

### **ISIS Human Resources**

The Integrated Statewide Information Systems for Human Resources (ISIS HR) system was implemented in October of 2001. The original scope of the ISIS Human Resources project was to encompass the human resources functions for Louisiana State Government: organizational management (positions), personnel, and payroll. ISIS HR was to include all employees and positions (classified and unclassified) in the executive branch of government *excluding payroll* for Higher Education, most boards and commissions, and quasi state agencies (levees, boards, housing authorities, ports). The purpose of the ISIS Human Resources project is to have a statewide integrated human resources system that is user-friendly and which supports single entry of data for agencies on payroll. The system maintains data that is current and accurate and can be easily accessed for ad hoc reporting, budget projections, and “What IF” analysis.

With only one system for those agencies paid through ISIS HR, much of the duplication of effort that existed in previous systems has been eliminated. ISIS HR provides these agencies effective and efficient processing and management of their human resource information including features such as employment history, retroactive pay processing, a transfer process whereby the personnel records follows the employee from agency to agency, and personnel budget projections.

One of the objectives of the ISIS HR system to achieve the goal of a statewide integrated human resource system was to develop an electronic interface so that the executive branch entities such as the LSU System and LSU Health Sciences Center, which run their own personnel and payroll systems, could submit transactions electronically, avoiding the situation where data had to be entered twice. However, the effort required by both ISIS HR and these Higher Education entities to sustain the interface was both labor intensive and costly. Therefore, this method of electronic interface has been discontinued, and an alternative solution which merges data from the ISIS HR system with data from the LSU system into one state personnel file was developed by the Department of State Civil Service. This complete state personnel file resides at the Department of State Civil Service.

The implementation of the ISIS HR system has also facilitated the Department of Civil Service’s transition from pre-approval of personnel actions. With the elimination of the pre-approval process and the inherent delays associated with pre-approval, the timeliness and accuracy of data has been improved. By empowering agencies, State Civil Service has less staff resources dedicated to entering and maintaining data and has redirected these resources to human resources consulting and technical assistance roles. State Civil Service uses data in the ISIS HR system to identify problem areas in agencies and areas of noncompliance and initiates corrective action in order to assist agencies in adhering to the rules and points out best practice agencies to assist those that might be having problems.

### **Reporting Requirements**

Pursuant to recommendations of the House Committee on Governmental Reorganization, in 1987 the legislature made changes in statutory requirements for Department of State Civil Service reports of state employment statistics. Since state civil service includes certain employ-

ees of ports, levee boards, and other local entities, civil service reports include these local employees in employee totals. In addition, there has been confusion as to what constitutes an “employee,” since many do not realize that the civil service designation “unclassified employee” includes such categories as members of boards and commissions, faculty of higher education institutions, and student employees. In 1987, the legislature required the state civil service department to structure reports of state employment so as to clarify their meaning and to better represent actual numbers of state employees. The requirements provide that total state employees be reported by full-time equivalent positions, both classified and unclassified, and that a breakdown be provided to give numbers of education employees, student employees, board members, and other employees (R.S. 42:289-291). As a result of this legislation, the Department of State Civil Service now records and reports employment by both the old method (See **Tables 1 and 2** on pages 241 and 242) and the new method (See **Table 3** on page 244).

### Employment Statistics

After a period of steady growth, classified employment levels declined during the 1980's. Classified employment grew from the 1989-1990 Fiscal Year until it reached a peak in the 1998-1999 Fiscal Year and has shown a slight decline in the 2000's. Despite the growth in the 90's, the number of classified employees did not reach the highs of the 1980's. However, during the same period there has been a substantial growth in the number of unclassified employees. Table 1 provides the number of classified and the number of unclassified state employees as reflected in civil service records from 1972 to the present. As noted above, the figures in Table 1 include some local employees and all persons in the state classified and unclassified service (including board and commission members, higher education faculty, and student employees). The totals are not converted to full-time equivalents. Most unclassified employees are in higher education institutions (over 25,600 on Sept. 30, 2003, and over 1,200 in Health Care Services on the same date).

**TABLE 1**  
**DEPARTMENT OF STATE CIVIL SERVICE**  
**REPORT ON**  
**EMPLOYEES IN STATE GOVERNMENT**  
JUNE 30, 1972 - SEPTEMBER 30, 2003

Period Ending	Classified Employees	Unclassified Employees
June 30, 1972	48,161	11,080
June 30, 1973	50,283	12,130
June 30, 1974	52,068	13,039
June 30, 1975	57,809	13,839
June 30, 1976	57,879	14,662
June 30, 1977	57,710	15,264
June 30, 1978	59,236	15,604
June 30, 1979	62,392	16,576
June 30, 1980	64,230	17,830
June 30, 1981	68,393	18,737
June 30, 1982	69,581	20,281
June 30, 1983	68,294	19,733
June 30, 1984	67,940	19,960
June 30, 1985	69,415	20,574
June 30, 1986	65,068	23,357
June 30, 1987	60,926	23,807
June 30, 1988	59,177	23,722
June 30, 1989	56,788	24,298
June 30, 1990	57,868	25,794
June 30, 1991	61,808	26,948
June 30, 1992 <sup>1</sup>	63,047	28,618
June 30, 1993 <sup>1</sup>	64,252	29,763
June 30, 1994 <sup>1</sup>	65,804	30,956
June 30, 1995 <sup>1</sup>	67,232	31,872
June 30, 1996 <sup>1</sup>	67,648	31,860
June 30, 1997 <sup>1</sup>	67,065	32,483
June 30, 1998 <sup>1</sup>	67,346	33,967
June 30, 1999 <sup>1</sup>	68,039	34,312
June 30, 2000 <sup>1</sup>	67,267	35,194
Dec. 31, 2001 <sup>2</sup>	66,900	31,998
June 30, 2002	66,521	33,432
June 30, 2003	66,930	35,292
Sept. 30, 2003	66,702	35,208

<sup>1</sup>These figures (classified) also include members of the State Police Service (a separate civil service system). The total number of commissioned state police officers for the dates indicated were provided by the Dept. of Public Safety and Corrections.

<sup>2</sup>This is the first reporting period that includes records from the ISIS HR system. Beginning with this period, the members of the State Police Service are included in the totals.



**TABLE 2**  
**CLASSIFIED AND UNCLASSIFIED EMPLOYMENT BY DEPARTMENT**  
*All Employees*  
*(See Employment Statistics on page 241 for explanation of employees included)*

Department	June 30, 1997		June 30, 1998		June 30, 1999		June 30, 2000	
	Classified	Unclassified	Classified	Unclassified	Classified	Unclassified	Classified	Unclassified
Office of the Governor	1,354	688	1,421	733	1,820	929	1,879	1,116
Economic Development	365	365	367	392	370	385	366	364
Culture, Recreation & Tourism	681	740	731	748	756	796	740	833
Transportation & Development	5,528	80	5,479	80	5,464	102	5,428	80
Public Safety & Corrections	9,316	567	9,615	653	9,970	667	10,150	753
Health & Hospitals	21,657	2,792	12,728	1,288	12,926	1,377	12,614	1,140
Social Services	6,193	50	6,144	43	6,088	37	5,814	61
Natural Resources	416	112	461	117	467	95	482	80
Revenue	930	374	951	310	955	290	966	313
Environmental Quality	893	151	917	172	956	172	961	172
Labor	1,143	118	1,121	167	1,139	190	1,120	196
Wildlife & Fisheries	728	114	738	106	760	103	746	80
Civil Service	163	95	166	96	161	87	158	94
Education	13,072	23,562	21,860	26,308	22,064	26,568	21,788	27,003
Public Service Commission	82	34	88	37	91	30	93	26
Agriculture	768	424	747	451	788	613	802	1,009
Justice	0	476	0	485	0	489	0	516
Insurance	210	103	214	83	225	89	241	85
Elections & Registration	154	395	159	399	175	313	152	273
Lieutenant Governor	3	13	3	13	3	15	3	20
State	156	67	159	56	156	74	154	43
Treasury	604	139	611	164	278	110	296	112
<b>Total</b>	<b>64,416</b>	<b>31,459</b>	<b>64,680</b>	<b>32,901</b>	<b>65,612</b>	<b>33,531</b>	<b>64,953</b>	<b>34,369</b>

Source: State Civil Service and Dept. of Public Safety and Corrections

**TABLE 2 (continued)**  
**CLASSIFIED AND UNCLASSIFIED EMPLOYMENT BY DEPARTMENT**  
**All Employees**

(See *Employment Statistics* on page 241 for explanation of employees included)

Department	Dec. 31, 2001		June 30, 2002		June 30, 2003		Sept. 30, 2003	
	Classified	Unclassified	Classified	Unclassified	Classified	Unclassified	Classified	Unclassified
Office of the Governor	1,968	1,317	1,951	1,444	2,098	1,583	2,104	1,576
Economic Development	179	194	179	211	69	106	68	112
Culture, Recreation & Tourism	754	551	754	685	708	665	710	570
Transportation & Development	5,228	57	5,181	91	5,228	105	5,224	77
Public Safety & Corrections	10,473	608	10,463	681	10,494	649	10,472	620
Health & Hospitals	12,510	933	12,360	962	12,578	978	12,747	962
Social Services	5,363	44	5,312	38	5,262	32	5,228	32
Natural Resources	477	91	480	101	505	81	507	73
Revenue	960	263	921	201	915	228	899	180
Environmental Quality	943	87	941	85	965	85	954	78
Labor	1,234	209	1,233	224	1,202	231	1,154	210
Wildlife & Fisheries	746	100	742	102	749	96	750	97
Civil Service	165	89	169	85	162	86	161	87
Education	21,785	25,214	21,719	25,947	21,828	27,751	21,559	28,007
Public Service Commission	96	28	99	34	102	30	101	30
Agriculture	793	494	783	695	797	630	790	598
Justice	0	500	0	499	0	488	0	482
Insurance	240	89	245	105	257	125	255	85
Elections & Registration	152	331	155	326	150	377	150	390
Lieutenant Governor	4	13	4	14	4	15	4	16
State	158	45	161	74	166	57	171	54
Treasury	373	105	387	104	427	115	430	108
<b>Total</b>	<b>64,601</b>	<b>31,362</b>	<b>64,239</b>	<b>32,708</b>	<b>64,666</b>	<b>34,513</b>	<b>64,438</b>	<b>34,444</b>

Source: State Civil Service and Dept. of Public Safety and Corrections

**TABLE 3**  
**CLASSIFIED AND UNCLASSIFIED EMPLOYMENT BY DEPARTMENT<sup>(1)</sup>**  
 Excludes Students and Board and Commission Members

DEPARTMENT	SEPT 30, 2003		SEPT 30, 2003	
	Total Employees		Full-Time Equivalent (FTE)	
	Classified	Unclassified	Classified	Unclassified
Office of the Governor <sup>(2)</sup>	2,104	1,216	2,101	969
Economic Development	68	25	68	24
Culture, Recreation & Tourism	710	519	680	334
Transportation & Development	5,224	33	5,223	33
Public Safety and Corrections	10,472	426	10,472	285
Health & Hospitals	12,747	659	12,701	379
Social Services	5,228	18	5,228	18
Natural Resources	507	11	507	10
Revenue	899	145	899	24
Environmental Quality	954	22	954	9
Labor	1,154	114	1,140	26
Wildlife & Fisheries	750	13	750	12
Civil Service	161	57	160	6
Education <sup>(3)</sup>	21,559	26,668	21,377	22,201
Public Service Commission	101	11	101	11
Agriculture	790	481	790	316
Justice	0	435	0	434
Insurance	255	25	255	25
Elections & Registration <sup>(4)</sup>	150	376	150	173
Lieutenant Governor	4	11	4	11
State	171	29	171	18
Treasury	430	41	430	24

<sup>(1)</sup> Includes all executive branch departments and offices of governor and lieutenant governor. Includes employees of the respective department and of agencies and facilities in the department. See "Employment Statistics" on page 234 for further explanation of employees included in table.

<sup>(2)</sup> Includes the Dept. of Veterans' Affairs which becomes a separate department on January 12, 2004. (The Dept. of Veterans' Affairs classified total is 373 employees (373 FTE) and unclassified total is 38 employees (4 FTE).

<sup>(3)</sup> Totals include postsecondary education employees Health Care Services employees.

<sup>(4)</sup> Department of Elections and Registration totals include parish registrars' offices. Dept. of Elections and Registration will be merged with the Dept. of State on January 12, 2004.

Source: Department of State Civil Service

A further breakdown of state classified and unclassified employees arranged according to employing department is presented in Table 2. The figures include the state executive branch departments, the governor's and lieutenant governor's offices, as well as all employees of the departments and all agencies and facilities within each department. Note that the Education Department includes faculty and other employees of higher education institutions and vo-tech schools, and Health Care Services as well as employees of the State Department of Education. Members of boards and commissions, higher education faculty, and student employees are included as unclassified employees. Figures are not based on full-time equivalents (FTE).

Table 3 provides September 30, 2003, Department of State Civil Service figures for classified and unclassified employees, by department, excluding board and commission members and student employees. Both total employees and full-time equivalent (FTE) employees are listed. Employees of each department and all agencies in the department are included.

### **PUBLIC PERSONNEL MANAGEMENT**

The term personnel management refers to programs and procedures intended to improve the quality and productivity of the work force and to make effective use of personnel dollars. (Other terms used for personnel management include Human Resource Management and Human Capital Management.) Personnel management issues and initiatives over a number of years have included such matters as employee training, employee performance appraisal and pay for performance, workforce planning, and proposals to create an executive career service.

#### **Employee Training**

As a result of legislative action in 1979, the Comprehensive Public Training Program (CPTP) provides generally applicable skills training for all state employees, and supervisory and managerial skills training for current supervisory employees. State employees attend these courses as part of their work day as requested or required by their agencies. The division of administration is designated to develop and deliver these classes in cooperation with the Department of State Civil Service (*R.S. 42:1261-1265*).

The CPTP's budget is established through the Executive Budget development process and currently is about \$1.46 million. Approximately one half of the CPTP budget comes through direct general fund appropriation. The remaining funds come from assessments charged to state agencies having classified state employees. The assessments are based on a percentage of the total annual gross salary budget for classified employees. The actual method for determining the assessment is provided in *R.S. 42:1261 through 1265*.

The mission of the CPTP is to assist state government agencies to become more efficient and effective by developing managerial talent, by fostering professionalism in the workplace, and by helping employees in both managerial and non-managerial positions to increase and enhance their skills. In FY 2003-2004, some 15,000 to 20,000 employees are expected to participate in CPTP classes either in a traditional classroom setting or through compressed video and other computer-based training technologies.

The management curriculum provides four functional management development certificates that eligible supervisors and managers may earn. The four functional certificates are Certificate for Building Effective Teams, Certificate for Managing People, Certificate for Managing Work, and Certificate for Advanced Managerial Skills. The concept of these functional certificates is

to allow participants and agencies choose a specific area of management in which to concentrate efforts and improve skills. In addition, the management curriculum includes the professional designation of Certified Public Manager. Once a participant earns all four functional certificates, he or she is then eligible to earn the Certified Public Manager certificate by completing the requirements for such designation. This curriculum is designed to meet standards developed by the National Certified Public Manager Consortium. Louisiana, 22 other states, the District of Columbia, and other governmental entities are members of this consortium. The role of the consortium is to assure that governmental managers receive the highest quality training. The consortium constitution requires that each member program successfully complete a peer review for accreditation and subsequently be reaccredited at least every five years. Louisiana was a charter member of the CPM consortium in 1981, and was reaccredited in the Spring of 2000.

More information about the Comprehensive Public Training Program is available on the division of administration website (<http://www.doa.state.la.us>).

### **Employee Performance Appraisal/Pay for Performance**

Performance appraisal for state employees and the related issue of pay for performance have been addressed over the last several years. In 1997, Civil Service implemented a five-tier performance appraisal system for all classified state employees. The system is continuously monitored and improved, so that the percentage of classified state employees rated by their supervisors increased from 77.8 in FY 1999-2000 to 93.4 in FY 2002-2003. Employees receiving ratings less than “Meets Expectations” cannot receive a merit increase. In 2001, the Civil Service Commission passed rules that allow agency managers to exempt from layoff employees with outstanding performance ratings, regardless of seniority.

Various approaches to pay for performance are available to agency managers so that they can customize compensation options to fit their unique needs. The State Civil Service rule on Gainsharing and Exceptional Performance allows employees who save money or increase efficiency to receive a monetary reward of up to 20% of annual salary. Other specific pay tools for agency managers include Employee Rewards and Recognition, Optional Pay Adjustments, and Dual Career Ladders. Rewards for innovations and special projects can be up to 9% of annual pay. Optional Pay allows payment for additional duties for which an employee is not otherwise compensated of up to 10% of annual salary. Dual career ladders enable managers to compensate extremely valuable scientific or technical employees who have no subordinates without creating unnecessary layers of management. In FY 2002-2003, over 1800 classified employees were authorized additional pay using one of these options.

### **Recent Issues**

As a result of House Concurrent Resolution 34 of the 2000 Regular Session of the Legislature of Louisiana, the State Civil Service Commission held a public hearing in October 2000 to identify reforms to the human resource program that would result in a more effective and efficient use of the state’s human resources. At that hearing, the Department of State Civil Service was commended by the governor for what “may be the most significant change in the history of the Louisiana Civil Service system, the delegation of authority to state agencies to approve all personnel transactions.”

The delegation of such authority was the result of ASCEND (Advancing Service, Creating Excellence, Nurturing Distinction) 2020, a major redesign initiative of Civil Service. Along with

that delegation of authority came increased demands for both assistance and accountability. Therefore, the Department of State Civil Service was reorganized to an “agency service center” design, devoting greater resources to agency/employee assistance teams and to accountability assessments. As of August of 2003, almost 400 agency visits had been made, each resulting in an evaluative report or letter.

ASCEND 2020 also included the establishment of a consolidated Job Search website on which vacancies at any state agency may be advertised. Qualified candidates apply directly to the employer, eliminating the “middle-man.” Job seekers may sign up on the website to be e-mailed notices any time a new state vacancy is advertised that meets their individualized search criteria.

The final component of ASCEND 2020 was the conversion of all state personnel records from paper to computer imaged records.

The study done in response to HCR 34 of the 2000 Regular Session resulted in a substantial number of changes, many of which have already been mentioned (multiple pay schedules, gainsharing, evaluation of agency HR practices, the Job Search website, simplification of the layoff process, and pay for performance). Other major reforms are as follows:

- **Recruiting, Staffing, and Workforce Planning**

Civil Service has identified and implemented several assessment tools that replace or supplement written tests. These include a video assessment of face-to-face customer service skills, used for Driver’s License Officers. Another video test is under development for Correctional Officers who work with juveniles. Also, a new in-basket exercise is used for assessing management skills for supervisors.

Since February 2002, testing of applicants for state employment has been offered on a walk-in basis at all seven testing centers throughout the state. For more information about testing, including exam schedules and testing locations, please visit the Department of State Civil Service’s website (<http://www.dscs.state.la.us>).

Because 50% of the classified officials and administrators and 22% of the professionals in Louisiana State Government are eligible to retire between 2004 and 2008, State Civil Service has developed a model for agencies to use as a resource in staffing and succession planning. Workforce profiles showing agencies how their staffing will change over the next five years are issued annually to the major state agencies. Additionally, State Civil Service provides tools, such as training and a formal mentoring program, to address the problems revealed through the profiles.

- **Mandatory Supervisory Training**

The Department of State Civil Service works very closely with the CPTP to develop the capabilities of agency supervisors and human resource managers and to improve managerial accountability by developing and delivering courses including “Common Myths That Affect Good Supervision,” “Civil Service Essentials for Supervisors,” “Controlling Absenteeism and Tardiness in State Government,” “Performance Planning and Review for Supervisors,” and “Documenting for Performance and Discipline.” Effective July 2002, the Civil Service Commission established mandatory training requirements for all supervisors, managers, and executives in the classified service. Civil Service

staffers trained over 10,000 classified state employees in FY 2002-2003. In addition, an employee orientation video entitled “State Employment: Advantages and Responsibilities” is available at the State Civil Service website (<http://www.dscs.state.la.us>).

- **Increased Employee Accountability**

The State Civil Service Commission extended the probationary period for classified employees from twelve to twenty-four months. This change gives agencies more time to make a thorough evaluation of a new employee prior to the employee gaining a property right to his position through the attainment of permanent status.

The backlog of employee appeals to the State Civil Service Commission was reduced from 455 in 1999 to 124 in 2003.

### RETIREMENT

More than twenty **retirement** or pension systems, funds, or plans exist for the benefit of public employees in the state of Louisiana. The constitution vests the legislature with certain powers and duties regarding thirteen of these retirement systems. Two of the thirteen are strictly for employees of the state, two are for employees of the public educational system, and nine are for employees of political subdivisions of the state.

The systems for state employees and for public school employees are the Louisiana State Employees’ Retirement System, the State Police Pension and Retirement System, the Teachers’ Retirement System of Louisiana, and the Louisiana School Employees’ Retirement System. These systems, commonly referred to as the “state systems”, are statutorily defined as state agencies and are under the jurisdiction of the Department of Treasury. The nine systems for employees of political subdivisions, called “statewide systems”, are for various categories of public employees such as municipal employees, parish employees, district attorneys, and clerks of court. The other systems for which the legislature has less responsibility are purely local in nature, such as for employees of a particular municipality.

Each system is governed by a board of trustees with the authority to transact the business of the system, to invest system funds, and to hold all cash and securities of the system in trust. The trustees have a fiduciary duty to act in the best interest of the system, to the exclusion of all other concerns, in transacting the business of their system. The legislature exercises some control over the various systems through legislative acts. The constitution requires that any benefit changes for the state and statewide systems occur through legislative enactment. Legislation either provides directly as to a particular system or specifies limits within which several systems may operate, and generally provides for membership eligibility, employee and employer contributions, retirement eligibility, and benefits.

#### State and Statewide Systems

Membership eligibility is generally determined directly by the type of employment. This is indicated by the names of the major state and statewide systems.

State Employees’ Retirement System  
State Police Pension and Retirement System  
School Employees’ Retirement System  
Teachers’ Retirement System  
Assessors’ Retirement Fund  
Clerks’ of Court Retirement and Relief Fund  
District Attorneys’ Retirement System  
Firefighters’ Retirement System  
Municipal Employees’ Retirement System  
Municipal Police Employees’ Retirement System  
Parochial Employees’ Retirement System  
Registrars of Voters Employees’ Retirement System  
Sheriffs’ Pension and Relief Fund

Under most plans both the employee and the employer contribute a percentage of salary to the system. In some systems, such as the Sheriffs' Pension and Relief Fund, the Firefighters' Retirement System, and the Municipal Police Employees' Retirement System, the employer contributions are supplemented by a dedicated percentage of taxes or assessments.

Retirement **eligibility** is theoretically keyed to the employee's productive life relative to the work performed. Many systems provide for retirement after ten years of service at age 60, twenty-five years of service at age 55, or thirty years of service at any age. The number of retirees seeking reemployment performing the same or similar duties in positions covered by the same system from which they draw benefits has raised an actuarial concern that the standards for retirement eligibility are not keeping pace with the increasing longevity and productivity of today's workforce.

In most systems, the longer a person is employed, the greater his monthly benefit will be upon retirement. **Benefits** are usually determined by multiplying a percentage, called an accrual rate, (normally 2% to 3%) of highest average compensation for thirty-six successive months times the number of years of service credit.

Of special interest among the benefits these systems afford their members is the **Deferred Retirement Option Plan** or "**DROP**". In lieu of terminating employment and accepting a retirement allowance, a member who has reached retirement eligibility may elect to participate in DROP. Upon entry into DROP, the member begins "receiving" retirement benefits while continuing to receive his salary; however, the retirement benefit payments are not made to the member. Instead, they are paid into a designated account for the period during which the member participates in the plan, up to a maximum of three years. After the member separates from employment, the member enters actual retirement and the funds in his DROP account are paid to him in a lump sum or in a lifetime annuity.

The DROP was created by actuaries as a cost-neutral benefit. So long as the provisions of the DROP mechanism remain as they are, the systems maintain their actuarial integrity while providing a benefit. However, nearly any change in the plan provisions, particularly extending the participation period, would come with an actuarial cost.

Providing retirement benefits, coupled with paying cost-of-living increases to retirees, is a considerable expense of state and local government. The legislature has been extremely interested in the funding of these benefits and the corresponding effect on the **unfunded accrued liabilities** (UAL) of the systems. This unfunded accrued liability is the difference between the amount of assets necessary to pay the value of all benefits already earned and the amount of assets the system possesses which are available to pay these benefits.

The solvency of state retirement systems is of critical importance, since the state guarantees the retirement benefits of its public school employees and officials and employees of the state. Since 1975, all legislation affecting a retirement system must have an actuarial note attached explaining the long-range financial and actuarial effect of the measure.

The total unfunded accrued liabilities of the thirteen state and statewide systems had reached \$3.1 billion as of June 30, 1986. In response to this problem, a constitutional amendment was approved by the state's voters in November, 1987, that required the actuarial soundness of the systems to be attained and maintained. The constitution now requires that the unfunded



accrued liability which existed on June 30, 1988, be eliminated over a forty-year period ending in the year 2029. The Legislative Actuary reports that, as of June 30, 2002, the total unfunded accrued liability of the thirteen state and statewide systems equaled \$8.5 billion, with \$7.7 billion of that amount being attributed to the four state systems. This amount does not include the \$1.7 billion deficit in the Employee Experience Accounts discussed below.

The present amortization schedule provides for total payment of the UAL by the year 2029. The constitution requires the legislature to establish for each state or statewide retirement system the particular method of actuarial valuation to be employed for purposes of attaining and maintaining the actuarial soundness of each system. The legislature is required to determine and set all required contributions to be made by members and employers of the state and statewide systems, to provide an amount necessary to fund the employer portion of the normal cost for the state systems, and to provide for the amortization of the initial unfunded accrued liability existing on June 30, 1986.

The actuarial experience of two major state systems, the Louisiana State Employees' Retirement System and the Teachers' Retirement System of Louisiana, was used in the past to **indirectly impact the state budget**. Actuarial gains of each of these systems which exceed 8.25% are divided in half with one-half being credited to the **Employee Experience Account** of each of the respective systems (reserved solely for retirees' cost of living adjustments) and the remaining half being credited as assets of that system. The actuarial losses are apportioned in the same manner between the Experience Accounts and the assets of the systems, and any balance in the Experience Accounts is credited or debited with the investment loss or gain attributable to the balance in that Experience Account.

Those additional assets credited to the systems along with all other assets are used to determine the annual employer contribution rate. At the end of FY 97-98, the assets of the two systems equaled \$5.6 billion and \$10.4 billion, respectively, and their interest earnings equaled 10.6% and 18%, respectively. Thus, based solely on that year's earnings, one-half of approximately \$1.2 billion was credited to the retirement systems and used to reduce the employer contribution rates. The credit offset state general funds that otherwise would have been appropriated for payment of employer contributions to these retirement systems.

Unfortunately, the returns of these two systems for the past few years has been below the target rate of 8.25%, resulting in losses apportioned to the Experience Accounts which have not been recognized in the funding mechanisms of these systems. The combined balance in the two accounts as of June 30, 2003, was approximately negative \$1.7 billion. This creates two problems. The first is that the retired teachers and state employees have no hope of receiving a cost-of-living adjustment in the foreseeable future, without legislative changes. The second and larger problem is that this negative balance represents an accrued liability for which no funding method is provided, contrary to constitutional requirements.

There are several **current issues** that may result in legislation involving retirement policy matters. Each of the retirement systems share common design characteristics. As a consequence, when a major issue arises, the situation that gives rise to the issue and any solution thereto may involve all or most of the systems. At the present time such issues include:

- C Rising employer contribution rates as a result of continued actuarial investment losses and increasing unfunded liability.

- C Employment of retirees and the reduction of benefits that applies to such reemployed retirees.
- C Cost-of-living adjustments, specifically the amount and method used for payment of COLAs.

## INSURANCE

All full-time employees, retired employees, employees of governing boards and authorities who are under civil service, and eligible dependents may make application for membership in the Office of Group Benefits program as one of the many benefits offered to employees of the state under current law. However, certain employees may continue participation in the program if employed and participating in the program on or before June 29, 2001. The program offers accident and health, term life, and dependent life insurance coverage to those employees and officials who elect to participate and provides for automatic payroll premium deductions for those coverages desired. The state contributes 75% of the premium liability of participating members for health and life insurance coverages only, but makes no premium contribution for certain optional accident and extended term life benefits also available through the program.

Effective July 1, 2001, the Office of Group Benefits program created the Board of Group Benefits Policy and Planning to replace the Board of Trustees. The composition of the board remained the same but the function changed from policy and management to policy review and recommendation. The board is comprised of the commissioner of insurance, who is a nonvoting member, and fifteen voting members; of the voting members, seven are appointed and eight are elected by various Office of Group Benefits program participants. The voting members are as follows: one member of the House of Representatives, appointed by the speaker of the House; one member of the Senate, appointed by the president of the Senate; five gubernatorial appointees from the private sector; two elected retirees (one retired state employee and one retired teacher); six elected active employees, one each to represent employee groups from higher education, Department of Health and Hospitals/Department of Social Services, school personnel, Department of Transportation and Development, Department of Public Safety and Corrections, and one from all other state agencies.

The program is managed by a chief executive officer who is appointed by the commissioner of administration and subject to Senate confirmation. The chief executive officer shall exercise all functions necessary for the administration and implementation of the policies and rules of the office which relate to rulemaking, licensing, regulation, enforcement, and adjudication, including personnel management. The program is self-insured; premium payments are collected and managed by program personnel and claims disbursements are made out of the pooled premiums. While most aspects of the program are self-administered by civil service employees, a number of services, including actuarial services and the prescription drug program are provided by private consultants under contracts.

Currently employees and officials may choose health coverage through the Office of Group Benefits administered Preferred Provider Organization (PPO), Managed Care Option administered by F.A. Richard & Associates (FARA) or, in some areas, through participating Health Maintenance Organizations (HMOs) and the Definity Health Plan.

### DUAL OFFICEHOLDING AND DUAL EMPLOYMENT

The Constitution of Louisiana (*Art. X § 22*) mandates that the legislature enact laws defining and regulating dual employment and defining and regulating dual officeholding in state and local government. To meet this mandate and achieve this goal, the legislature enacted Part III of Chapter 2 of Title 42 (*R.S. 42:61 - 66*). The premise of these provisions of law is that the attainment of a high level of confidence and trust by the general citizenry in public officials, employees, and governmental decisions is impaired by the excessive accumulation of governmental power which may result from public officials or employees holding two or more public offices or public jobs.

The framework of the law is to provide definitions, specific prohibitions, additional prohibitions on incompatible combinations of office holding or employment, penalties, and particular exceptions.

Two of the more important terms in these provisions of law are “full-time” and “part-time” and are defined as follows:

- ! “Full time” means that the person normally works or is expected to work in an appointive office or employment at least seven hours per day and at least thirty-five hours per week.
- ! “Part time” means that the person normally works or is expected to work in an appointive office or employment less than the number of hours of work defined as full time.

The expressly prohibited combinations are as follows:

- ! Elective office, appointive office or employment in any of the branches of state government or in a political subdivision, **and** elective office, appointive office, or employment in the government of a foreign country, the government of the United States, or the government of another state.
- ! Office or employment in one branch of state government **and** office or employment in another branch of state government (except as provided by the constitution).
- ! Elective office in the government of the state **and** another elective office, full-time appointive office, or employment in state government or in a political subdivision.
- ! Elective office in a political subdivision of the state **and** another elective office or full-time appointive office in state government or in any political subdivision or employment in state government or in the same political subdivision from which he is elected.
- ! More than one full-time appointive office or full-time employment in state government or in a political subdivision.
- ! Elective office in state government **and** contract to provide full-time health or health-related services for any agency of state government.

Holding “incompatible offices” or employments is also prohibited. “Incompatible offices” are offices or employments in which the incumbent of one of the offices or employments (whether or not in conjunction with others):

- ! Has the power to appoint or remove the incumbent of the other.
- ! Receives the oath and/or bond of the incumbent of the other.
- ! Is charged by law with instituting actions for penalties against the incumbent of the other.
- ! Is charged by law to execute orders and follow directions given by the incumbent of the other.
- ! Is charged with auditing the accounts of or approving the budget of the other.
- ! Receives funds that are deposited with or turned over to the other.

The remedy for prohibited dual officeholding or employment is a petition for declaratory judgment filed in the parish of domicile of the defendant or that of the office he holds. Such suit may be filed by the attorney general, a district attorney, or any citizen of the state. If the court declares that a violation exists, the court must declare the office with the term first to expire or one of the employments vacant. The court may order reimbursement of certain pay and other compensation. However, an elective officeholder remains in office until his successor has qualified. The attorney general is responsible for issuing advisory opinions on dual officeholding and dual employment. Anyone acting on such advice is not required to reimburse pay.

The following classes of officeholders and employees are generally exempt from the provisions of law relative to dual officeholding and dual employment:

- ! Notaries public.
- ! Officers in U.S. military service detailed to educational institutions in the state and persons serving in the National Guard or reserve military forces.
- ! Delegates to and employees of any constitutional convention or any charter commission.
- ! Presidential electors.
- ! Persons serving on any board, commission, or committee which is solely advisory in nature.
- ! The governor or his designee, when serving as a member of a state agency, commission, or other state entity in accordance with a provision of the constitution, laws, resolution, or executive order.
- ! Any official who holds another office by virtue of the office to which he is elected or appointed.
- ! A board member of a community action agency.
- ! Persons serving as district or state soil and water conservation committee members.
- ! The current administrator of the Jefferson pre-trial release program.

The following chart summarizes the provisions of the dual officeholding and dual employment statutes. Exemptions in addition to the ones above are footnoted.

Dual Officeholding and Dual Employment – Prohibited and Regulated Relationships (R.S. 42:61 - 66)											
	State Elective Office	Local Elective Office	State Full-Time Appointive Office	State Part-Time Appointive Office	Local Full-Time Appointive Office	Local Part-Time Appointive Office	State Full-Time Employment	State Part-Time Employment	Local Full-Time Employment	Local Part-Time Employment	Federal Office or Employment
State Elective Office	Prohibited §63(C)	Prohibited §63(C) & (D)	Prohibited §63(C)	Prohibited except in same branch §63(B)	Prohibited §63(C)	Allowed	Prohibited §63(C) <sup>3</sup>	Prohibited §63(C) <sup>3</sup>	Prohibited §63(C) <sup>3</sup>	Prohibited §63(C) <sup>3</sup>	Prohibited §63(A) <sup>18</sup>
Local Elective Office	Prohibited §63(C) & (D)	Prohibited §63(D) <sup>1</sup>	Prohibited §63(D) <sup>11, 17</sup>	Allowed	Prohibited §63(D) <sup>1, 2, 4, 9, 12, 13, 14, 17, 19</sup>	Allowed <sup>2, 4, 6, 9, 12, 13, 14, 17, 19</sup>	Prohibited §63(D) <sup>3, 9, 11, 15, 17, 20</sup>	Prohibited §63(D) <sup>3, 9, 11, 15, 17, 20</sup>	Prohibited in same political subdivision. Allowed in different political subdivisions.	Prohibited §63(A) <sup>3, 10, 17, 18</sup>	
State Full-Time Appointive Office	Prohibited §63(C)	Prohibited §63(D) <sup>11, 17</sup>	Prohibited §63(E)	Prohibited except in same branch §63(B)	Prohibited §63(E)	Allowed	Prohibited §63(E) <sup>3</sup>	Prohibited except in same branch §63(B) <sup>3</sup>	Prohibited §63(E) <sup>3</sup>	Allowed	Prohibited §63(A) <sup>18</sup>
State Part-Time Appointive Office	Prohibited except in same branch §63(B)	Allowed	Prohibited except in same branch §63(B)	Prohibited except in same branch §63(B)	Allowed	Allowed	Prohibited except in same branch §63(B) <sup>3</sup>	Prohibited except in same branch §63(B) <sup>3</sup>	Allowed	Allowed	Prohibited §63(A) <sup>7, 18</sup>
Local Full-Time Appointive Office	Prohibited §63(C)	Prohibited §63(D) <sup>1, 2, 4, 9, 12, 13, 14, 17, 19</sup>	Prohibited §63(E)	Allowed	Prohibited §63(E) <sup>1, 13</sup>	Allowed	Prohibited §63(E) <sup>3</sup>	Allowed	Prohibited §63(E) <sup>1, 3</sup>	Allowed	Prohibited §63(A) <sup>7, 18</sup>
Local Part-Time Appointive Office	Allowed	Allowed <sup>2, 4, 6, 9, 12, 13, 14, 17, 19</sup>	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Prohibited §63(A) <sup>5, 7, 18</sup>
State Full-Time Employment	Prohibited §63(C) <sup>3</sup>	Prohibited §63(D) <sup>3, 9, 11, 15, 17, 20</sup>	Prohibited §63(E) <sup>3</sup>	Prohibited except in same branch §63(B) <sup>3</sup>	Prohibited §63(E) <sup>3</sup>	Allowed	Prohibited §63(E)	Prohibited except in same branch §63(B)	Prohibited §63(E)	Allowed	Prohibited §63(A) <sup>16</sup>
State Part-Time Employment	Prohibited §63(C) <sup>3</sup>	Prohibited §63(D) <sup>3, 9, 11, 15, 17, 20</sup>	Prohibited except in same branch §63(B) <sup>3</sup>	Prohibited except in same branch §63(B) <sup>3</sup>	Allowed	Allowed	Prohibited except in same branch §63(B)	Prohibited except in same branch §63(B)	Allowed	Allowed	Prohibited §63(A) <sup>16</sup>
Local Full-Time Employment	Prohibited §63(C) <sup>3</sup>	Prohibited in same political subdivision. Allowed in different political subdivisions.	Prohibited §63(E) <sup>3</sup>	Allowed	Prohibited §63(E) <sup>1, 3</sup>	Allowed	Prohibited §63(E)	Allowed	Prohibited §63(E) <sup>1</sup>	Allowed	Prohibited §63(A)
Local Part-Time Employment	Prohibited §63(C) <sup>3</sup>	Prohibited in same political subdivision. Allowed in different political subdivisions.	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Allowed	Prohibited §63(A)

**DUAL OFFICEHOLDING AND DUAL EMPLOYMENT – FOOTNOTES**

- <sup>1</sup> A municipal officer or employee may hold another municipal office or employment as authorized by R.S. 33:381(C). A municipal and/or parochial officer or employee may hold another municipal and/or parochial office or employment if specifically authorized by a legislative or home-rule charter. §66(C) & (D)
- <sup>2</sup> Sheriffs, assessors, and clerks of courts are prohibited from holding any office or employment under a parish governing authority or school board and members of parish governing authorities or school boards are prohibited from holding any office or employment with a sheriff, assessor, or clerk of court. §63(D)
- <sup>3</sup> A school teacher or other person employed in a professional educational capacity in an educational institution or in a parish or city school board may at the same time hold an appointive or elective office. §66(B)
- <sup>4</sup> An elected police juror may be employed as a parish manager or assistant parish manager as authorized by R.S. 33:1236.1. §66(E)
- <sup>5</sup> A U.S. government employee may hold appointive office in a political subdivision unless the particular nature of his employment in combination with the duties and interests of the appointive office is otherwise prohibited or is adverse to the public interest as set forth in R.S. 42:61. §63(A)(2)
- <sup>6</sup> Permits a joint commission of two parishes (except a causeway commission) to appoint a member of a parish governing body as general superintendent. Prohibits appointment of a parish governing authority member or parish employee to a joint causeway commission of more than one parish. §64(B)
- <sup>7</sup> Permits a health care facility board member (state or political subdivision) to serve as an employee of a U.S. health care facility. §66(H)
- <sup>8</sup> Permits a U.S. Postal Service employee to hold a local elective office in a village or town with a population of 5,000 or less. §66(I)(1)
- <sup>9</sup> Permits an elected school board member to be employed as a juvenile probation officer in a district court, a parish prison warden, or a deputy sheriff, if on September 7, 1979, the person was an elected school board member and held elective or appointive office in juvenile services of the district court or held employment as a parish prison warden or as a deputy sheriff and has continued to so serve as a school board member and in juvenile services of the district court, or as a school board member and as a parish prison warden or a deputy sheriff. Not applicable to parish prison wardens and deputy sheriffs in any parish over 400,000 in population. §66(J)
- <sup>10</sup> Permits a U.S. government employee to hold elective office on a parish or city school board, unless the particular nature of his employment in combination with the duties and interests of his elective office is otherwise prohibited or is found to be adverse to the public interest. §63(A)(3)
- <sup>11</sup> Permits a mayor of a municipality with a population of not more than 5,000 who is a licensed physician to be employed in or appointed to any position for which a physician is required at the Lallie Kemp Regional Medical Center. §66(K)
- <sup>12</sup> Permits a deputy sheriff to hold the office of mayor or alderman of a municipality with a population of 2,000 or less. §66(L)(1)
- <sup>13</sup> Permits a chief of police of a municipality with a population of less than 5,000, according to the 1990 federal decennial census, to hold the office of deputy sheriff. §66(M)
- <sup>14</sup> Permits a deputy sheriff to hold the elected office of part-time constable of a justice the peace court whose jurisdiction has a population of 15,000 or less, according to the 1990 census, or part-time constable or marshall of a city court in a municipality with a population of 10,000 or less, according to the 1990 census, provided such positions were held as of January 1, 1997. §66(L)(2)
- <sup>15</sup> Permits a person holding employment in state government to hold elective office in a municipality with a population of less than 6,500, according to the 1990 census, unless the particular nature of the employment or the office make the combination incompatible. §66(N)
- <sup>16</sup> Permits a person employed in the state classified civil service as a toll collector to be employed as an emergency rural carrier with the United States Postal Service, provided such person was employed as a toll collector as of January 1, 1999. §66(I)(2)

**DUAL OFFICEHOLDING AND DUAL EMPLOYMENT – FOOTNOTES (continued)**

- <sup>17</sup> Allows a coroner to hold appointive office or employment in any governmental entity as a physician. §66(F).
- <sup>18</sup> Allows any of the following to be an assistant U.S. attorney when so designated for cooperative efforts in criminal prosecutions and without additional compensation: (a) Attorney general, (b) Assistant attorneys general, (c) district attorneys, (d) assistant district attorneys, (e) city attorneys, and (f) assistant city attorneys. §66(G).
- <sup>19</sup> Allows the elected clerk of court of Jefferson Parish to serve as the ex officio clerk of court for a consolidated Justice of the Peace Litter Court of Jefferson Parish. §66(P).
- <sup>20</sup> Permits an unclassified state employee to hold elective office on a parish, city, or other local school board unless the particular nature of such employment in combination with the duties and interests of his elective office is incompatible or found to be adverse to the public interest. Expires December 31, 2002. §66(O).

**POLITICAL ACTIVITY IN CLASSIFIED STATE CIVIL SERVICE & STATE POLICE SERVICE**

“Political activity” as related to classified employees is defined by the state constitution as an effort to support or oppose the election of a candidate for political office or to support a particular political party in an election (*Const. Art. X, §§9(C) and 47(C)*). The constitution prohibits certain specified political activity for an officer or employee in the classified civil service or in the classified state police service.

An officer or employee of the classified service (state civil service or state police service) is not prohibited from supporting issues involving bonded indebtedness, tax referenda, or constitutional amendments; nor is he prohibited from expressing his opinion privately, serving as a commissioner or official watcher at the polls, or casting his vote as he desires.

Civil service rules (state civil service and state police service) further regulate political activity. For example, state civil service rules and state police service rules specify that classified employees in those respective systems may not actively participate in the circulation of petitions for the recall of an elected public official from office, but they may sign such petitions. (*State Civil Service Rule 14.1 and State Police Service Rule 14.2.*) The state civil service rules are available on the department’s website ([www.dscs.state.la.us](http://www.dscs.state.la.us)) and the state police service rules are available on the State Police Commission’s website ([www.laspc.com](http://www.laspc.com)). In addition, the Department of State Civil Service issued General Circular No. 001501 dated September 19, 2002, which specifies permissible and prohibited political activities by classified employees and which is available on the department’s website. Soliciting contributions for political purposes from an officer or employee of the classified service or the state police service is also prohibited (*Const. Art. X, §§9(B) and 47(B)*). The same constitutional provisions further prohibit any person in the classified service from using or attempting to use his position to punish or coerce the political action of a classified employee.

**Prohibited Political Activity  
Classified State Civil Service and  
State Police Service  
(*Const. Art. X, §§9(A) and 47(A)*)**

- ! Participating or engaging in political activity.
- ! Being a candidate for nomination or election to public office, except to seek election as the classified state employee serving on the State Civil Service Commission or the classified state police officer serving on the State Police Commission.
- ! Being a member of any national, state, or local committee of a political party or faction.
- ! Making or soliciting contributions for any political party, faction, or candidate.
- ! Taking active part in the management of the affairs of a political party, faction, candidate, or any political campaign.

# STATE AND LOCAL GOVERNMENT IN LOUISIANA: AN OVERVIEW 2004-2008 TERM

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*House Legislative Services*

## Part XII. Ethics and Related Matters

The Code of Governmental Ethics is the primary body of law which regulates conflicts of interest of legislators and other public officials and employees. However, there are several other closely related areas which are covered by other provisions, such as election campaign finance and lobbyist/legislator relationships. This Part includes a discussion of ethics, campaign finance, and lobbyists, and also includes short sections on other election code violations, related provisions of the criminal code, and causes and methods for removal from office.

The following summary is necessarily brief. Public officials and employees may familiarize themselves with the provisions of the Code of Governmental Ethics in more detail by reviewing the provisions of R.S. 42:1101 et seq. The Code is included in the *Handbook* which is made available to all members of the House of Representatives.

### ETHICS

The Constitution of Louisiana declares that “legislative office is a public trust, and every effort to realize personal gain through official conduct is a violation of that trust” (*Const. Art. III, §9*). It mandates the legislature to enact a code of ethics prohibiting conflict between public duty and private interests of members of the legislature. In addition, the constitution requires that the legislature enact a code of ethics for all officials and employees of the state and its political subdivisions (*Const. Art. X, §21*).

The Code of Governmental Ethics fulfills both of the above constitutional mandates by providing a comprehensive code covering all state and local elected officials (except judges), appointed officials, and employees. (*R.S. 42:1101 et seq.*) The Code of Gov-



ernmental Ethics (R.S. 42:1167) provides that judges, as defined by the Code of Judicial Conduct, shall be governed exclusively by the provisions of the Code of Judicial Conduct, which shall be administered by the Judiciary Commission provided for in Section 25 of Article V of the Constitution of Louisiana.

### Jurisdiction

The Board of Ethics has jurisdiction involving matters of unethical conduct by officials and employees of the state and its political subdivisions, including legislators. Any complaint of an ethics code violation may be investigated by the board upon receipt of a sworn complaint or upon a two-thirds vote of the board's membership. Information about the board, its opinions, and its agendas is available at the board's website ([www.ethics.state.la.us](http://www.ethics.state.la.us)).

### General Prohibition - Gifts

A public servant is prohibited from receiving gifts or things of value from persons having or seeking to obtain contractual or business relationships with the public servant's agency or from paid lobbyists seeking to influence legislation by the public servant's agency. A public servant is also generally prohibited from receiving any thing of value from a private source for the performance of his or her public duties (R.S. 42:1115 and R.S. 42:1111). (**Note:** The term "public servant" includes elected officials, appointed officials, and public employees.). However, a public servant may receive promotional items having no substantial resale value. A public servant may also consume food, drink, or refreshments and receive "reasonable transportation" and entertainment incidental thereto while the personal guest of some person (R.S. 42:1102(22)). There are specific exceptions for legislators. (See discussion below.)

### Legislators; Specific Provisions

Several provisions of the Code of Governmental Ethics make specific reference to legislators:

- **Transportation: Educational/Informational** (R.S. 42:1102(22))

Legislators and legislative branch employees may receive and accept "reasonable transportation" when organized primarily for educational or for informational purposes including on-site inspections. This includes transportation to any point within the boundaries of this state, including its territorial waters, and to any offshore structure located on the outer continental shelf seaward of the territorial waters and offshore of Louisiana. Legislators and legislative branch employees may also receive food and drink incidental to such transportation.

- **Transportation: Entertainment Purposes Only** (R.S. 42:1102(22))

With reference to legislators only, "reasonable transportation", when organized primarily for entertainment purposes incidental to food, drink, or refreshments, includes transportation to any point within Louisiana that is within a fifty-mile radius of the perimeter of the legislator's district, or within a fifty-mile radius of the perimeter of East Baton Rouge Parish if the legislator is conducting official business in that parish.

- **Speaking Engagements** (R.S. 42:1123(16))

When making a "public speech", a legislator may accept food, refreshments, and lodging reasonably related to making such speech, as well as reasonable round-trip transportation

from his home, or the capitol, to the site of the speaking engagement from the sponsoring group or organization, provided the speech is given in any state of the United States or Canada and full disclosure of such transaction is made by affidavit to the Board of Ethics within 60 days of the speech. “Public speech” is defined in this context as a speech, or other oral presentation, including a panel discussion, or radio or television appearance by a legislator in his capacity as a legislator.

- **Sporting and Cultural Events** (R.S. 42:1123(13))

A legislator may also receive anything of economic value as a gift or gratuity from any person where the value of such gift does not exceed \$100 per event, up to an aggregate amount of \$500 in a calendar year from any person, and where the nature of the gift is limited to a cultural or sporting event within the state, including its territorial waters, including entertainment reasonably incident thereto. This also applies to legislators who are on official state business outside of the state when they as legislators are entitled to per diem for such official business.

- **Contracts with the State** (R.S. 42:1113(D))

The ethics code prohibits a legislator, a legislator-elect, the spouse of a legislator or a legislator-elect, or any corporation, partnership, or other legal entity in which a legislator, a legislator-elect, or the spouse of a legislator or a legislator-elect owns any interest, excluding publicly traded corporations, from entering into any contract or subcontract with state entities (any branch, agency, department, or institution of state government, the Louisiana Insurance Guaranty Association, the Louisiana Health Insurance Guaranty Association, or any other quasi public entity created by law). Contracts awarded pursuant to public bid or a request for proposal or similar competitive process as provided by law are excepted. There are a number of other exceptions. *(See accompanying table **Exceptions to Prohibitions on Legislator's Contracts with State Agencies.**)*

- **Financial Disclosure** (R.S. 42:1114 and 1114.1)

Each member of the legislature must file a report of income received from the state or a political subdivision or for services performed for or in connection with a gaming interest, including such income received by the member, the member's spouse, or any business enterprise of which the member or his or her spouse owns at least 10 percent. This

#### **Exceptions to Prohibitions on Legislator's Contracts with State Agencies**

- Provider agreements entered into with the Department of Health and Hospitals under the state medical assistance program are not considered contracts or subcontracts subject to the prohibition
- Foster parent provider agreements and child care provider agreements entered into with the Department of Social Services are not considered contracts or subcontracts subject to the prohibition
- Completion of contracts or subcontracts entered into prior to initial election to the legislature; however, no such contract or subcontract may be renewed
- Completion of contracts or subcontracts entered into prior to July 1, 1995; however no such contract or subcontract may be renewed
- Contracts for employment in a professional educational capacity in an elementary or secondary school or other educational institution
- Contracts of sale pursuant to the expropriation of immovable property by any branch, agency, department, or institution of state government
- Contracts of employment of a physician with the state or the charity hospitals of the state *(Note: See discussion of R.S. 42:63(F) on page 246.)*

report is filed with the chief clerical officer of the house to which the member belongs, by July first of each year of his or her term of office. Income under \$250 is excluded. The report also must include a certification that such member has filed his or her federal and state income tax return, or has filed for an extension of time for filing such tax return.

The following income is specifically included in the reporting requirement: remuneration received under any verbal or written contract of employment, fees received for professional services less expenses paid to third parties, and with respect to the sale or lease of immovable property, merchandise or equipment, the net income, prior to taxation, received from each sale or lease. Income specifically excluded from the reporting requirement includes: remuneration from the legislature, salary for full-time employment of the member's spouse, salary of the member's spouse when the spouse is an elected official, and benefits from a statewide public retirement system. On or before July fifteenth, the secretary of the Senate and the clerk of the House must send the Board of Ethics copies of all disclosure reports filed with them and must notify the board in writing of any members who have not filed such reports.

Failure to file a report, failure to timely file a report, failure to disclose required information, or filing a false report subjects a member to penalties in the Code of Governmental Ethics and also constitutes contempt of the house to which the member belongs.

In addition, a legislator and any member of his immediate family who derives anything of economic value, directly, through any transaction involving the legislative branch, or who derives anything of economic value of which he may be reasonably expected to know through a person who has bid on or entered into or who is in any way financially interested in any contract, subcontract, or any transaction involving the legislative branch, must disclose the amount of income or value derived, the nature of the business activity, and, as applicable, the name and address and relationship to the legislator, and the name and business address of the legal entity. This report is due to the Board of Ethics no later than the first of May each year.

### All Public Servants

The ethics code contains ethical standards for public servants generally. (*The term "public servant" includes all elected officials, appointed officials, and public employees.*) As public servants, the following also apply to legislators:

- **Payments from nonpublic sources (R.S. 42:1111)**

Public servants are generally limited to the compensation and benefits they receive from the appropriate governmental entity for performance of the duties of their office. Restrictions, and in some cases prohibitions, are placed upon receiving payments from nonpublic sources. For example, an elected official is prohibited from receiving or agreeing to receive anything of economic value for assisting a person in a transaction or in an appearance in connection with a transaction with the governmental entity or its officials or agencies unless he files a sworn written statement with the Board of Ethics prior to or at least ten days after initial assistance is rendered. For legislators, the term "governmental entity" means the state.

- **Transactions involving the governmental entity (R.S. 42:1112)**

A public servant is prohibited from participating in certain transactions involving the governmental entity in which he or specified other persons have an interest. However, R.S. 42:1120, which requires an elected official to recuse himself from voting on matters which may constitute a conflict of interest provides, in part, that an elected official shall not be required to recuse himself if he prepares and files a written statement describing the matter in question, the nature of the conflict or potential conflict, and the reasons why, despite the conflict, he is able to cast a vote that is fair, objective, and in the public interest. (**Note:** *A legislator must file this disclosure statement with the ethics board as well as with the chief clerical officer of the legislative body or the legislative committee in which the vote is taken. The statement must be filed within three days of the vote and a copy of the statement in the journal, minutes, or record must be filed with the ethics board.*)

- **Prohibited contracts (R.S. 42:1113)**

Certain contractual arrangements between public servants and public entities are prohibited. For example, a legislator, a member of his immediate family, or a legal entity in which he has a controlling interest is prohibited from bidding on or entering into or being in any way interested in any contract, subcontract, or other transaction involving the legislative branch. “Controlling interest” means any ownership in any legal entity or beneficial interest in a trust, held by or on behalf of an individual or a member of his immediate family, either individually or collectively, which exceeds twenty-five percent of that legal entity. “Immediate family” as it relates to a public servant means his children, the spouses of his children, his brothers and their spouses, his sisters and their spouses, his parents, his spouse, and the parents of his spouse. (**Note:** *Also see **Contracts with the State**, beginning on page 260 relative to other prohibited contracts.*)

- **Prohibitions Following Public Service (R.S. 42:1121)**

An elected official is prohibited for a period of two years following the termination of his elected public service from assisting another person, for compensation, in a transaction or in an appearance in connection with a transaction involving his former agency (the legislative branch for a legislator). Also, a legal entity in which a former public servant is an officer, director, trustee, partner, or employee, is prohibited for a period of two years following the termination of his public service, from assisting another person, for compensation, in a transaction, or in an appearance in connection with a transaction in which the public servant at any time participated during his public service and involving his former agency. Former public servants are also prohibited from sharing in any compensation received by another person for assistance which such former public servant is prohibited from rendering. (**Note:** *Members of boards and commission are further prohibited from contracting with, being employed by or being appointed by that former board or commission for a period of two years after leaving that board or commission.*)

## **Other Ethical Standards**

In addition to the above ethical standards, the Code includes provisions prohibiting abuse of office, illegal payments, influencing legislative action, and nepotism (R.S.42:1116, 1117, 1118, and 1119). Specific exceptions to the Code are outlined in R.S. 42:1123. (**Note:** *A legislator is prohibited, by R.S. 24:31.5, from employing a member of his or her immediate family as a legislative assistant.*)

## ETHICS AND RELATED MATTERS

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- **Abuse of Office** (R.S. 42:1116)

Using one's office or position with intent to compel or coerce someone to provide a thing of economic value to anyone is prohibited. In addition, using one's office or position, directly or indirectly, in a manner intended to compel or coerce any person or other public servant to engage in political activity is prohibited.

- **Drug Testing** (R.S. 42:1116.1)

Acts 1997, No. 1303, added a provision to the Code of Governmental Ethics mandating random drug testing of all elected officials. The board was directed to develop rules and policies to carry out the implementation of a random drug testing program. The statute is the subject of litigation challenging the constitutionality of random drug testing of elected officials. The federal district court found the statute to be unconstitutional and the matter is on appeal, *O'Neal v. State of Louisiana*, Docket No. 98-31415, Fifth Circuit Court of Appeal.

### **Penalties** (R.S. 42:1153, 1154, 1155, 1157, and 1124.1)

General penalties for violations of the ethics code include censure and fines of not more than \$10,000, or both. The code also provides for certain civil penalties and late filing fees.

## CAMPAIGN FINANCE

The Board of Ethics also functions as the Supervisory Committee for Campaign Finance Disclosure. The Campaign Finance Disclosure Act requires reports of campaign contributions and expenditures for candidates and political committees. It also prohibits certain campaign conduct and limits the amounts of campaign contributions. Candidates are divided into three categories: **major** (*statewide, PSC, Supreme Court, BESE, and certain other offices in districts with a population over 250,000*); **district** (*legislature, parishwide and multi-parish – except those that are major – and districts of over 35,000 population*), and **other**. Louisiana's law does not use the term "PAC" (political action committee); the terms "committee" and "political committee" are used. Depending upon the specific context, committee may mean a candidate's committee (which reports with the candidate) or a committee not established by a candidate which supports or opposes one or more candidates. This latter type is informally referred to as a PAC. More information regarding the Board of Ethics, including campaign finance reports which have been filed and opinions issued regarding campaign finance matters, can be found on the Internet ([www.ethics.state.la.us](http://www.ethics.state.la.us)).

## Records and Reports

***All contributions and expenditures must be reported*** and the report must aggregate them for each contributor or recipient. Therefore, complete records must be kept including the sale of tickets to testimonials or other fund-raising events. The records should contain the date, amount, and name and address of each contributor or recipient. However, the name and address of each purchaser of campaign paraphernalia for twenty-five dollars or less need not be kept.

- Reports must be filed with the supervisory committee on a statutorily established ***schedule***. For a legislative candidate this generally means two reports before the primary

election, an Election Day Expenditure report for the primary election, another report before the general election, an Election Day Expenditure report for the general election, and one after the general election. There are also **special 48 hour reports** that must be filed if certain transactions occur during the election cycle. In addition to these reports which occur during the months of the campaign, there are other campaign reports which may be required of a candidate or his principal campaign committee.

- If the candidate's or committee's final report shows a deficit, a **supplemental report** must be filed by February 15. This report must be filed annually until the reportable debts and obligations of the campaign have been extinguished. Supplemental reports must also be filed if the final report of a candidate, former candidate, or committee shows a surplus until the surplus is disposed of.
- Even if the candidate or committee has no deficit, **an annual report** must be filed on February 15 unless:
  - The candidate or committee has filed another required report, such as a supplemental report, after the preceding December 10th and prior to the February 15th due date; or
  - The candidate or committee has not received contributions or made expenditures, or made or received loans, or made or received transfers of funds during the reporting period.
- In certain instances involving **small campaigns** (for a legislator, contributions of less than \$200 and expenditures of no more than \$5,000 during the aggregating period) the candidate or his committee may file **an affidavit in lieu of a report**.
- During the **20 days prior to an election** through midnight of election day, a **report** must be filed **within 48 hours** of any contribution or loan in excess of \$250, or an expenditure in excess of \$200 to a candidate, committee, or someone required to report who makes endorsements.
- A special report of **election day expenditures** must be filed not later than ten days after each election.
- Reports filed by certain candidates for statewide office are required to be filed electronically. All other candidates have the option of either filing paper copies or electronically. However, all reports once filed are available on the Board of Ethics website ([www.ethics.state.la.us](http://www.ethics.state.la.us)).

### Contribution Limits

The Campaign Finance Disclosure Act specifically **limits campaign contributions** to legislative candidates and their committees to \$2,500, except that for such contributions made by political committees with over 250 members who contributed at least \$50 to the committee during the preceding calendar year the limit is \$5,000. These limits are per election (the primary and general election are separate elections) and do not apply to a candidate's use of his personal funds or any contributions made by recognized political parties or committees thereof.

Contribution Limits				
	To major office candidate or his committee per election <sup>1</sup>	To a district office candidate or his committee per election <sup>1</sup>	To any other office candidate or his committee per election <sup>1</sup>	To a PAC over 4 calendar year period 1/1/95 - 12/31/99 1/1/00 - 12/31/04
Individual may give <sup>2</sup>	\$5,000	\$2,500	\$1,000	\$100,000
Family member of candidate may give	\$5,000	\$2,500	\$1,000	\$100,000
Legal entity may give <sup>3</sup>	\$5,000	\$2,500	\$1,000	\$100,000
PAC may give <sup>4</sup>	\$5,000	\$2,500	\$1,000	\$5,000/2,500/1,000
Big PAC <sup>5</sup> may give <sup>4</sup>	\$10,000	\$5,000	\$2,000	\$10,000/5,000/2,000
Democratic or Republican Party or committees may give	No limits	No limits	No limits	No limits

Source: Materials Prepared by Supervisory Committee

<sup>1</sup> The primary and general elections are considered as two separate elections.

<sup>2</sup> A husband and wife may each make a contribution to the same candidate up to the limit. However, separate checks should be used. If a single check is signed by one spouse, the other must provide an affidavit as to their intent to share in the contribution.

<sup>3</sup> Includes legal entities owned wholly or partially by candidates, except Internal Revenue Code Subchapter S corporations wholly owned by the candidate. Parent corporations and their subsidiaries are subject to a single limit. A corporation is a parent if it owns over 50% of another corporation.

<sup>4</sup> Candidates are also subject to an aggregate limit on the contributions they may accept from all PAC's combined from both the primary and general elections. Those limits are: \$50,000 - major office, \$48,195 (subject to change with CPI) - district office, and \$10,000 - any other office.

<sup>5</sup> A PAC with over 250 members who contributed over \$50 to the PAC during the preceding calendar year and has been certified as meeting that membership requirement.

Legislative candidates may not accept more than \$48,195 in contributions from political committees (other than those from recognized political parties) for both the primary and general election. However, this aggregate limit for district office candidates may change on January 1, 2000, and every four years thereafter because the supervisory committee is required by law to adjust the limit in accordance with the consumer price index.

### Use of Campaign Funds

Campaign funds may be used for expenditures, or reimbursements to the candidate for expenditures, related to the campaign or the holding of public office but may not be used for personal expenses.

### Prohibitions

The Campaign Finance Disclosure Act specifically prohibits the following:

- The contributing of money, materials, or loans to support a candidate or political committee through or in the name of another, directly or indirectly.
- Expenditures by a candidate, political committee, or other person required to file reports from funds which have been contributed anonymously. Anonymous contributions must be paid over to the state by the recipient.

- Cash contributions in excess of \$100 during a calendar year. Any cash contribution must be evidenced by a receipt containing the name, address, social security number, and signature of the contributor.
- Expenditures in excess of \$100 from petty cash and expenditures from petty cash for any personal services except gratuities for the serving of food or drink.
- A campaign contribution from or expenditure by a corporation, labor organization, or trade or business, or professional association without that entity first obtaining the appropriate authorization from its membership or officers and such contribution or expenditure may only be made in-kind or by check.
- The receipt of contributions or expenditures or loans, or transfers of funds to or from a committee to another committee in the aggregate in excess of \$500 during a calendar year without having first filed an annual statement of organization. A contribution by a candidate to a committee which has not filed a required organization statement is also prohibited.
- Campaign funds may not be used for any personal use unrelated to a political campaign or the holding of public office.
- Giving or accepting anything of economic value, including reimbursement, for conveying an elector to a polling place to vote. There are specified exceptions for certain bona fide and permitted or licensed transportation.
- A campaign contribution from a foreign national.
- Campaign contributions from any persons with a substantial interest in the gaming industry. (**Note:** *This provision was held unconstitutional by the Louisiana Supreme Court, insofar as it precluded contributions by video poker licensees and related persons. Rehearing was denied. Penn v. State of Louisiana, 99-CA-2337*).
- Coercion of a person to give or withhold a contribution; directly or indirectly affecting a person's employment, membership, participation, or status in an organization or any compensation, payment, benefit, or other emolument derived from or related to such membership or participation; or making a contribution or expenditure using funds so obtained.

### **Use of Surplus Campaign Funds**

Conversion of surplus campaign funds to personal use unrelated to a political campaign or holding of public office is also prohibited. The law (*R.S. 18:1505.2*) provides a listing of specific permissible uses for excess campaign funds, as follows:

- Return to contributors on a pro rata basis.
- Give as a charitable contribution to a charitable organization as defined in 26 USC 501(c)(3).
- Expend in support of or in opposition to a proposition, political party or candidate.



- Maintain in a segregated fund for use in a future political campaign or activity related to preparing for a future candidacy to elective office.

*(Note: The limitations on use of excess campaign funds applies only to contributions received by a candidate or political committee on or after January 1, 1991.)*

### Penalties

The Campaign Finance Disclosure Act includes civil penalties for knowing failure to file or to timely file reports. The amount is doubled for required 48 hour reports. For a legislator, the late filing fee is up to \$60 per day, not to exceed \$2,000. Civil penalties are also provided for knowingly and willfully failing to disclose or to accurately disclose. For legislators such a civil penalty may not exceed \$60 per day up to a total penalty of \$2,000. Minimum civil penalties per day of violation are also established for any other violation of the Act (\$300 for legislators). Criminal penalties are provided for a knowing, willful, and fraudulent failure to file or timely file a report or to disclose or accurately disclose and for other knowing, willful and fraudulent violations. This criminal penalty is a maximum of six months in jail, or a fine up to \$500, or both.

### Related Provisions

Though not part of the Campaign Finance Disclosure Act, the following related provisions of law should also be noted:

- **Fundraising Functions During Legislative Sessions**

Fundraising functions for or by a legislator are prohibited during a legislative session unless written notice of the function has been given to the Board of Ethics not less than thirty days prior to the function (*See R.S. 24:56*). (*Also see **Lobbying/Lobbyists** below.*)

- **Election Offenses**

The Election Code prohibits certain knowing, willful, or intentional conduct relating to elections. (*See accompanying table **Selected Election Offenses**.*)

- **Contribution in Return for Endorsement**

The election code provides that no person shall solicit or receive funds nor any thing of value from a candidate or political committee and no candidate or political committee or

#### Selected Election Offenses

No person shall:

- ! Offer, promise, solicit, or accept money or anything of present or prospective value to secure or influence a vote or registration of a person.
- ! Intimidate, directly or indirectly, any voter or prospective voter in matters concerning voting or nonvoting or registration or nonregistration.
- ! Offer money or anything of present or prospective value or use, directly or indirectly, any form of intimidation to influence the action or encourage inaction of any public official with regard to the duties of his office or to influence a commissioner or watcher in his decision to serve or not to serve as such or in the performance of his duties on election day.
- ! Register, vote, or attempt to register or vote in the name of another or in an assumed or fictitious name, or in any manner other than as provided in the Election Code.
- ! Give or offer to give, directly or indirectly, any money or thing of present or prospective value to any person who has withdrawn or who was eliminated prior or subsequent to the primary election as a candidate for public office, for the purpose of securing or giving his political support to any remaining candidates or to candidates for public office in the primary or general election.

*Source: R.S. 18:1461*

other person shall pay any funds or any thing of value to any person for the purpose of endorsing, supporting, opposing, or securing an endorsement, support of or opposition to any candidate. The provisions are not to be construed to prohibit the payment by a candidate, political committee, or other person, of funds or any thing of value to a person in return for the conducting by the person to whom the payment is made, of a social function which is in support of or in opposition to a candidate or political committee or which otherwise seeks to influence an election (R.S. 18:1468).

- **Bribery of a Candidate**

Bribery of a candidate is the giving, promising or offering to give, directly or indirectly, a campaign contribution to a candidate, political committee, or other person, or the accepting, soliciting, offering to accept, directly or indirectly, a campaign contribution, by a candidate, political committee or other person, with the intention that the candidate will provide or influence another to provide the contributor or another person a position of public employment, an appointive governmental position, a public contract, or anything of apparent present or prospective value. Bribery of a candidate is a crime. (R.S. 18:1469)

## LOBBYING/LOBBYISTS

The primary laws regulating legislative lobbying (R.S. 24:50 *et seq.*) provide for the registration of lobbyists, for certain reports of their expenditures, and prohibit certain conduct. Only “lobbyists” as defined in the law are regulated. Statewide elected officials and their designees are specifically excluded from the application of the law.

### Key Definitions

- **Legislation:** Bills, resolutions, concurrent resolutions, joint resolutions, amendments, nominations, and other matters pending or proposed in either house of the legislature. “Legislation” also includes any other matter which may be the subject of action by either house.
- **Lobbyist:** A person employed to act in a representative capacity for the purpose of lobbying if lobbying constitutes one of the duties of such employment, or any person who receives compensation of any kind to act in a representative capacity when one of the functions for which compensation is paid is lobbying and who makes expenditures of \$200 or more in a calendar year for the purpose of lobbying.
- **Expenditure:** The gift or payment of money or anything of value when the amount of value exceeds \$10 for the purchase of food, drink, or refreshment for a legislator and any gift or payment as permitted by ethics code provisions relative to speaking engagements and sporting and cultural events (R.S. 42:1123(13) and (16)) when the value exceeds \$10 for the purpose of lobbying when the lobbyist or principal accounts or would be expected to account for the expenditure as an ordinary and necessary expense directly related to the active conduct of the lobbyist’s, his employer’s, or the principal’s trade or business.
- **Lobbying:** A direct act or communication with a legislator, the purpose of which is to aid in influencing the passage or defeat of any legislation.

### Registration

Each lobbyist must register with the Board of Ethics within five days of employment as a lobbyist or within five days after the first action requiring his registration. Registration must be renewed annually between December 1st and January 31st. Registration requires specified information, including the lobbyist's name and business address; the name and address of the person who employs him and, if different, whose interests he represents, including the business in which that person is engaged, and a copy of a recent photograph. If registration information changes, a supplemental registration must be filed. A \$10 fee must accompany registration, renewal, and supplemental registration.

### Reports

Each lobbyist must file a report semiannually with the Board of Ethics of all expenditures incurred for the purpose of lobbying.

- **Reporting Periods.** The first reporting period is January first through June thirtieth and the report is due by August fifteenth. The second reporting period is July first through December thirty-first and the report is due by February fifteenth.
- **Contents.** Each report includes:
  - < Total expenditures during the reporting period.
  - < If the aggregate expenditure for any one legislator exceeds \$50 on one occasion, or if the aggregate expenditure for one legislator exceeds \$250 in a reporting period, the total amount of expenditures for the legislator (by name) during the reporting period.
  - < The aggregate total of expenditures for all reporting periods during the same calendar year.
  - < The aggregate total of all expenditures attributable to an individual legislator (by name) for all reporting periods in the same calendar year.
  - < A statement of the total expenditures for each reception, social gathering or function to which the entire legislature, either house, any standing committee, select committee, statutory committee, committee created by resolution of either house, subcommittee of any committee, recognized caucus, or any delegation thereof, is invited, including the name of the group or groups invited and the date and location of the reception or social gathering, or function. (Expenditures so reported are not included in the aggregate for an individual legislator.)
- **Exempt expenditures.** Any expenditure for any reception or social gathering sponsored in whole or in part by a lobbyist, individually or on behalf of a principal he represents, held in conjunction with a meeting of a national or regional organization of legislators or legislative staff to which any legislator is invited is exempt from the lobbying laws. In addition, any expenditure for any meal or refreshment consumed by or offered to a legislator in connection with the legislator giving a speech, being a member of a panel, or otherwise being involved in an informational presentation to a group is not reportable;

except that such types of expenditures for out-of-state events permitted by R.S. 42:1123(16) must be reported.

- **Public records.** Reports and forms filed are required to be maintained as public records and available for public inspection. A reasonable amount may be charged for copies.

### **Prohibited Conduct**

- **Fundraising during a Legislative Session.** (R.S. 24:56) During a legislative session a fundraising function for or by a legislator cannot be held unless written notice of the function has been given to the Board of Ethics not less than 30 days prior to the function. A lobbyist, for himself or his principal, is prohibited from offering or providing to a legislator or his principal campaign committee any campaign contribution or loan resulting from a fundraising function held during a legislative session unless the required notice has been given. In addition, unless the required notice is given, no legislator shall solicit or receive any campaign contribution or loan for himself or his principal campaign committee from a lobbyist or his principal resulting from a fundraising function held during a legislative session.
- **Lobbying by State Employees.** A state employee (in his official capacity or on behalf of his employer) is prohibited from lobbying for or against any matter intended to have the effect of law pending before the legislature or any legislative committee. The prohibition does not prohibit the dissemination of factual information relative to any such matter or the use of public meeting rooms or meeting facilities available to all citizens to lobby for or against any such matter.

### **Enforcement**

The Board of Ethics is responsible for the administration and enforcement of the lobbying laws. No action to enforce the law can be taken after two years after the alleged violation. The board has authority to impose penalties and to collect them as provided in the ethics code, and the board may recommend to the legislature that the legislature censure any person the board finds guilty of violations and prohibit such person from lobbying for not less than 30 days and not more than one year.

### **Penalties**

The following penalties apply:

- Failing to timely register or timely file any required report; shall be assessed by the board of a late fee of \$50 per day, not to exceed \$1500.
- Failing to timely register or timely file any required report when the registration or report is filed eleven or more days after the day on which it was due; may be assessed a civil penalty not to exceed \$10,000.

### **Lobbying/Expenditure of Appropriated Funds**

R.S. 43:31(D), relative to regulation of printing by state agencies, states in part that no entity of state government shall "... expend funds of, administered by, or under the control of any ...

## **ETHICS AND RELATED MATTERS**

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entity of state government to print material or otherwise to ... lobby for or against any proposition or matter having the effect of law being considered by the legislature ... ." This statute further states that it is not to prevent the normal dissemination of factual information relative to a proposition on any election ballot or a proposition or matter having the effect of law being considered by the legislature.

### **Lobbying/House Employees**

House Rule No. 3.4 prohibits employees of the House of Representatives from lobbying for or against, or under any other guise engaging in any activity in support of or in opposition to, any legislative instrument or other matter before the House of Representatives or the Senate during the course of any legislative session. The rule states that any such activity is cause for immediate dismissal from employment.

## **CRIMINAL LAWS RELATED TO PUBLIC OFFICE**

Louisiana's Criminal Code defines and prohibits a number of criminal offenses relating to public office and holders of public office. These include: public bribery (R.S. 14:118); bribery of voters (R.S. 14:119); corrupt influencing (R.S. 14:120); public intimidation (R.S. 14:122); threatening a public official (R.S. 14:122.2); perjury (R.S. 14:123); false swearing (R.S. 14:125); injuring public records (R.S. 14:132); filing false public records (R.S. 14:133); malfeasance in office (R.S. 14:134); public salary deduction (R.S. 14:135); public salary extortion (R.S. 14:136); public payroll fraud (R.S. 14:138); political payroll padding (R.S. 14:139); public contract fraud (R.S. 14:140); prohibited splitting of profits, fees, or commissions (R.S. 14:141); bribery of withdrawn candidates (R.S. 14:352).

## **REMOVAL FROM OFFICE**

### **Impeachment**

Article X, Section 24 of the Louisiana constitution provides for impeachment of state or district officials. Such an official, whether elected or appointed, is subject to impeachment for commission or conviction, during his term of office of a felony or for malfeasance or gross misconduct while in such office. An impeachment proceeding is instituted in the House of Representatives. The Senate conducts the trial and two-thirds of the elected senators must concur to convict. Such conviction results in immediate removal from office.

### **Felony Conviction**

The legislature has provided for the removal of public officers by suit in R.S. 42:1411 through 1414. Pursuant to R.S. 42:1411, a public officer shall automatically be suspended from office for conviction of a felony. The public officer shall be removed from office upon that conviction becoming final, but shall be reinstated, with back wages, should the conviction be overturned on appeal.

### **Recall**

The state constitution also provides (*Const. Art. X, §26*) for the recall by election of any state, district, parochial, ward, or municipal official, except judges of the courts of record. The general statutes relative to recall are provided in R.S. 18:1300.1 through 1300.17.

**Election Law Offenses**

The legislature has also provided (*R.S. 18:1461(C)*) that any candidate who is elected to public office and is convicted of one or more of certain election law offenses committed while running for the office to which he is elected, will forfeit such public office. The law also provides that upon such conviction becoming final, the public office shall be declared vacant.



# STATE AND LOCAL GOVERNMENT IN LOUISIANA: AN OVERVIEW 2004-2008 TERM

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## **275        Administrative              Procedure Act**

## **275    Agency Rulemaking**

## **276        Legislative Over-              sight of Rulemaking**

## **277    Oversight Calendar**

## **279        Adjudication**

## **279        Division of              Administrative Law**

*House Legislative Services*

## **Part XIII. Administrative Procedure**

### **Administrative Procedure Act**

The Louisiana Administrative Procedure Act (R.S. 49:950 et seq.) provides for public access to agency decision-making and furthers public awareness of agency rules by applying uniform requirements to state agencies with rulemaking power, and setting minimum standards for agencies to follow in adopting and implementing rules. Very generally, the Administrative Procedure Act (APA) establishes a uniform, comprehensive set of procedures covering: the administrative actions of state executive branch agencies, including rulemaking, fee setting, adjudicatory proceedings, and licensing; and judicial review of those actions. The APA applies to any state board, commission, department, agency, officer, or other entity (within the executive branch of state government) which makes rules, regulations, or policy, or formulates or issues decisions or orders pursuant to, or as directed by the laws of the state or the United States (R.S. 49:951).

The Office of the State Register is the official agency charged with the publication of the *Louisiana Register* at least once a month which contains agencies' notices of intent to adopt rules and the text of such rules. In addition, the Office of the State Register directs and supervises the publishing, indexing, and revision of the *Louisiana Administrative Code* which contains all effective rules adopted by each agency in accordance with the provisions of the APA. For further information, go to the Office of the State Register's website at <http://www.state.la.us/osr>.

### **Agency Rulemaking**

An agency that engages in rulemaking must file a description of its organization with the Office of the State Register, adopt rules setting forth the nature and



requirements of all agency procedures, and make available for public inspection all rules, preambles, responses to comments, and submissions and all other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions (R.S. 49:952).

Prior to the adoption, amendment, or repeal of any rule or fee, an agency shall give notice of its intended action to all persons who have timely requested such notice from the agency at least 90 days prior to taking action on the rule. The notice must include a description of the subjects and issues involved or a statement of the terms or substance of the intended action; statements of the fiscal impact, economic impact, and the impact upon family formation, stability, and autonomy; the name of the person within the agency responsible for responding to inquiries regarding the action; and a time, place, and manner where interested persons may present their views; etc. Such notice must be published in the *Louisiana Register*. The agency is further required to allow interested persons to submit data, views, comments, or arguments, orally or in writing. The agency must respond to comments and submissions. (See ***Timetable for Adoption of Rules, Fees, Emergency Rules, and Emergency Fees by Louisiana State Agencies*** on page 277.)

If an agency finds that imminent peril to public health, safety, or welfare requires adoption of a rule or fee upon shorter notice than 90 days, the agency must within 5 days of adoption inform the governor, the attorney general, the speaker of the House of Representatives, the president of the Senate, and the Office of the State Register of its reasons for so finding in writing. It may proceed without prior notice or hearing or upon abbreviated notice and hearing to adopt such emergency rule subject to certain requirements of law (R.S. 49:953(B)). The agency must take appropriate measures to make emergency rules known to the persons who may be affected. An emergency rule shall not be effective for a period longer than 120 days. (See also ***Legislative Oversight of Rulemaking***.)

### Legislative Oversight of Rulemaking

The legislature may review the exercise of rulemaking and authority and the adoption, increasing, or decreasing of fees, as well as any extensions of the legislative lawmaking function which it has delegated to state agencies (R.S. 49:968). Prior to the adoption, amendment, or repeal of any such rule, the agency must submit a report relative to the proposed action to the appropriate committees of the legislature and the presiding officers of the respective houses of the legislature. At such hearings, the committee(s) must determine if the rule change or action on fees is in conformity with the intent and scope of the enabling legislation; if the rule change or action on fees is in conformity and not contrary to law; if the rule change or action on fees is advisable or has merit; and if the rule change or action on fees is acceptable or unacceptable to the committee(s). (See ***Timetable for Adoption of Rules, Fees, Emergency Rules, and Emergency Fees by Louisiana State Agencies*** on page 277.)

Within 60 days after the adoption of an emergency rule or fee, the appropriate committees of the legislature may conduct a hearing to review an emergency rule or fee and make a determination of whether such rule or fee meets the criteria for an emergency rule or fee and the determinations as provided in the paragraph above. (See ***Timetable for Adoption of Rules, Fees, Emergency Rules, and Emergency Fees by Louisiana State Agencies*** on page 277.)

**TIMETABLE FOR ADOPTION OF RULES, FEES,  
EMERGENCY RULES AND EMERGENCY FEES BY LOUISIANA STATE AGENCIES**

DAY	TIME REQUIREMENT	ACTION
<u>Agency Rule and Fee Proposal</u>  10 days prior to Day 1	10 days prior to publication date of <i>State Register</i> in which notice of rulemaking or fee setting intent is published (Because the <i>Register</i> is published on the 20th day of the month, the deadline is always 10th day of month) (R.S. 49:951(7), 953(A)(1)(b)(i) and 968(B)).	Last day for agency to submit notice of intent of rulemaking or fee setting to <i>State Register</i> and legislative committee and presiding officers.
Day 1	<i>State Register</i> publication date (always the 20th day of month)	Notice of intent is published. By this date, also must submit notice to interested persons who have requested notice.
Day 36-41	Agency hearing, if requested, no earlier than 35 days and no later than 40 days after notice publication (R.S. 49:953(A)(2)).	The agency must conduct a hearing on the proposed rule or fee, if requested as specified in the law, and must provide for written comments.
***	Prior to legislative oversight, agency report to legislative committees (R.S. 49:968(D)).  <i>"Summary Report"</i>	A report of the hearing, summary of comments received, and of any proposed revision must be provided to the legislative committee, with an explanation of agency action on changes suggested.
<u>Legislative Oversight of Rules and Fees</u>  Day 1	Delivery of agency report to legislative committee (R.S. 49:968(D))  <i>"Summary Report"</i>	When the agency has completed its report and is ready for oversight, the report is submitted to the legislative committees. This starts the timetable for legislative oversight hearings.
Day 6-31	Legislative hearing no earlier than 5 days and no later than 30 days after agency report of hearing, comments, and/or revision (R.S. 49:968(D)(2) and 953(A)(2)(b)(ii)).	The legislative committees having jurisdiction may conduct a hearing to review and determine if the rule change or fee action is acceptable or unacceptable.
4th day after determination	Committee report to the governor, the agency, and the <i>State Register</i> not later than 4th day after committee determination, if the rule or fee is found unacceptable (R.S. 49:968(F)).	If rule is found unacceptable, the committee must submit a report to the governor, the agency, and the <i>State Register</i> summarizing its determination.
10th day after receipt by governor	The governor has 10 days after receipt of committee report to disapprove committee action (R.S. 49:968(G)).	The governor may disapprove committee action. If he <u>does not</u> disapprove committee action the agency <u>may not adopt</u> rule unless modified and approved by committee. If he <u>does</u> disapprove committee action, the agency <u>may adopt</u> rule.
<u>Legislative and Gubernatorial Oversight for Emergency Rules and Emergency Fees</u>  Day 1	Adoption of emergency rule or emergency fee (R.S. 49:953(B)(4)(a) and (b)).	Adoption of emergency rule or emergency fee begins time period for review by oversight subcommittee or by governor.

## ADMINISTRATIVE PROCEDURE

DAY	TIME REQUIREMENT	ACTION
Day 2-60	Oversight subcommittee hearing or gubernatorial review within 60 days of adoption of emergency rule or emergency fee (R.S. 49:953(B)(4)(a) and (b)).	Oversight subcommittee may conduct a hearing or governor may review to determine if such rule or fee meets criteria as emergency and determinations as provided in R.S. 49:968(D)(3).
4th Day after determination	Committee report to the governor, the agency, and the <i>State Register</i> and gubernatorial report to the agency and <i>State Register</i> not later than 4th day after committee or gubernatorial determination, if the rule is found unacceptable (R.S. 49:953(B)(4)(a) and (b) and 968(F)).	If rule is found unacceptable, the committee must submit a report to the governor, the agency, and the <i>State Register</i> or the governor must submit a report to the agency and <i>State Register</i> summarizing their determination. Upon agency receipt of report from committee or governor, rule is null and ineffective.
<u><b>Adoption and Effectiveness</b></u>  <i>Rules and Fees</i>  90 days after publication	First day agency may adopt rule or fee is 90 days after publication of notice in <i>State Register</i> and after compliance with rulemaking and oversight requirements (Last day for adoption is 12 months after notice publication) (R.S. 49:953(A)(1) and 968(H)).	Agency may adopt rule if the legislative committees of both houses fail to find the rule unacceptable or, if found unacceptable by a legislative committee of either house, if the governor disapproves committee action. Otherwise, it may not adopt the rule unless changed and approved by the committee.  Agency may adopt fee if a legislative committee of one house fails to find the fee unacceptable. The governor has no authority to disapprove.
***	Effective date of adopted rule or fee is date of <i>State Register</i> publication of such rule or fee, unless rule or law provides later date	Final rules or fees are effective after adoption by the agency and upon publication in the <i>State Register</i> , unless a later date is provided in the rule, fee, or by law.
<i>Emergency Rules and Emergency Fees</i>  Adoption or 60 days from adoption	Emergency rule or emergency fee is effective on date of adoption, or date specified by agency not more than 60 days from adoption provided written notice is given within 5 days of adoption to governor, attorney general, speaker, president, and Department of State Register (R.S. 49:951(7) and 954(B)(2)).	Agency may adopt emergency rule or emergency fee if emergency criteria are met. Emergency rule may be invalidated by declaratory judgment that it does not meet emergency criteria. (R.S. 49:953(B)(3)) Emergency rule is null upon agency receipt of report from oversight committee or governor that the rule is unacceptable. (R.S. 49:953(B)(4))
***	Not effective beyond publication date of <i>State Register</i> published in month following the month adopted, unless such rule or fee and the reasons for adoption are published (however, not effective for longer than 120 days) (R.S. 49:954(B)(2)).	Agency must publish emergency rule or emergency fee and the reasons for adoption in the <i>State Register</i> published the month after the month of adoption to continue effectiveness, provided not effective longer than 120 days.

This table uses the term legislative committee to include oversight committees of legislative committee. It should be noted that the APA authorizes and provides for oversight subcommittees of legislative committees to conduct hearings and make determinations; however, it also provides that the full committee may exercise this authority.

This table is a summary and does not purport to fully reflect the law. Please refer to the APA at LSA R.S. 49:950 et seq.

Revised by House Legislative Services 12/2/03.

**Adjudication**

In an adjudication, all parties who do not waive their rights shall be afforded an opportunity for hearing after reasonable notice. The notice must include the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing is to be held; make reference to the particular sections of the statutes and rules involved; and a short and plain statement of the matters asserted (R.S. 49:955). Parties involved must be afforded the opportunity to present evidence on all issues of fact, and conduct cross-examination as may be required for a full and true disclosure of the facts. The record of the adjudication must include certain required documents, and the agency is required to produce a full transcript of the proceedings if required to do so by statute or requested to do so by any party or person. Final decisions or orders adverse to a party in an adjudication proceeding must be in writing or stated in the record. Upon request, a copy of the decision must be given to each party and to his attorney of record. (R.S. 49:958).

**Division of Administrative Law**

The Division of Administrative Law (DAL) is an independent state agency which provides for administrative law judges to conduct fair, impartial, and prompt hearings for persons affected by state agency actions. The DAL conducts administrative hearings for state agencies according to the APA (R.S. 49:955 *et seq.*). Each party to an administrative hearing has a right to present and question witnesses, and submit or challenge documents regarding the decision. The result of the proceeding is a decision to affirm, modify, or set aside the original agency decision. The administrative law judge will issue a written decision based on the evidence introduced and the laws and regulations which apply to the case. In most cases, a decision will be issued within 30 days after the hearing is completed. A person who is dissatisfied with the administrative law judge's decision has a right to appeal. However, a state agency or a representative of such agency does not have the ability to appeal. Typically, the appeal is a judicial review of the record by the district court. (<http://www.adminlaw.state.la.us>)

In a recent case filed in the 19<sup>th</sup> Judicial District Court, the constitutionality of certain aspects of the system of administrative hearings via the Division of Administrative Law has been called into question. The final decision in the case is still pending. *Wooley v. State Farm*, Docket No. 502-311.



# STATE AND LOCAL GOVERNMENT IN LOUISIANA: AN OVERVIEW 2004-2008 TERM

## CHAPTER 3 — LOCAL GOVERNMENT

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In addition to the executive branch agencies discussed in the previous chapter, the management of many of the public affairs of Louisiana citizens is handled by local government. The governing authorities of the parishes, cities, and special districts assume a tremendous amount of responsibility for governance in important areas such as public safety, the use, development, and ownership of immovable property, and roads and other transportation matters.

This chapter focuses on four important aspects of local government:

- C Part I presents information on the organization and structure of local governments.
- C Part II discusses the local officials which the constitution requires.
- C Part III deals with civil service systems which cover certain employees of local governments
- C Part IV covers local government finance.

### Part I. Structure and Organization

Despite the important areas for which local governments assume responsibility and despite the fact that some cities are older than the state, the American federal system has defined the state as sovereign with respect to its local governments. Consequently, all matters relating to the form and authority of local government are subject to provisions of state constitutional or statutory law. An understanding of how the state provides for local government, therefore, is important to understanding local government.

Primary units of local government in Louisiana are parishes and municipalities. The constitution uses the term "local governmental subdivision" to refer to

## STRUCTURE AND ORGANIZATION

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them collectively. Another term that is important to a discussion of local government is “political subdivision” which is a parish, a municipality, or any other unit of local government, including a special district, authorized by law to perform governmental functions.

For Louisiana parishes and municipalities, there exists a traditional form of government which remains the most common form: the police jury system for parishes and the mayor-board of alderman form, as provided by the Lawrason Act, for municipalities. The statutes authorize alternatives to these traditional forms, and the constitution grants any parish or municipality the option of adopting a home rule charter. All of these forms will be discussed in this part, followed by a discussion of special districts and some recurring issues involving local government.

### PARISH GOVERNMENT

#### Police Jury

Most Louisiana parishes are governed by a police jury. The size of a police jury is established by ordinance of the jury itself though, with some exceptions, it must have at least five but not more than fifteen members or the number of members authorized for that police jury on or before May 13, 1974, whichever is greater. (*R.S. 33:1221*).

Generally, a police jury may exercise only those powers authorized by the constitution or by law (*Const. Art. VI, §7*). However, the constitution authorizes a police jury to exercise any power and perform any function necessary, requisite, or proper for management of its affairs, not denied by general law, if the exercise of this broad authority is approved by the electors of the parish.

The legislature over the years has authorized police juries to act on a very long list of matters including: making regulations for its own government; making and repairing roads, bridges, and levees; maintaining banks of rivers and natural drains, drainage ditches, and canals; levying taxes for parish expenses; establishing ferries and toll bridges; and providing support for the poor and those in necessitous circumstances (*R.S. 33:1236*). The police jury may enact ordinances and provide for their enforcement by imposing fines or imprisonment. Such ordinances may be prosecuted by criminal process of indictment or information. The police jury may also provide for enforcement of ordinances by fine or forfeiture to be collected by civil process before any court of competent jurisdiction (*R.S. 33:1242*). However, no police jury or any other local government may define or provide for the punishment of a felony (*Const. Art. VI, §9*).

#### Forms of Parish Government

- ! *Police Jury*
- ! *Parish Commission*
- ! *Home Rule*

#### Parish Commission

As an alternative to the police jury form of government, any parish, except Orleans, may elect to become organized under the parish commission plan. At the present time, no parish uses this form of government. To adopt such a plan, there must be a petition of fifteen percent of the electors of the parish. The president of the police jury is then required to call a special election and submit the proposition of organizing as a parish under the commission plan to the voters of the parish. If the proposition is approved by a majority of the votes cast, a commissioner of

public affairs, a commissioner of finance, and a commissioner of public improvements are elected at large at the next general state and parochial election. These three commissioners constitute a board of commissioners which is vested with all the powers and duties vested in or imposed upon the police jury (*R.S. 33:1271 et seq.*).

The commissioners serve for a term of four years and each commissioner must supply a bond before assuming the duties of his office. The commissioner of public affairs is head of the department of public affairs and has control of all public buildings and property of the parish, of public health and sanitation, and care and maintenance of paupers. He is also the ex officio president of the board of commissioners (*R.S. 33:1275 and 1276*).

The commissioner of finance is the head of the department of finance and has charge of all monies, credits, and securities of the parish and all receipts and disbursements. He is also treasurer of the parish and ex officio clerk of the board of commissioners. The commissioner of public improvements is the head of the department of public improvements and has charge and control of public roads, ways, bridges and ferries, their construction, repair, and maintenance (*R.S. 33:1276*).

Any parish which operates for more than six years under the commission plan may abandon such organization and resume its original form of government. To abandon such a plan, there must be a petition of not less than 30% of the electors of the parish. The board is then required to call a special election and submit the proposition to abandon the commission plan to the voters of the parish. If the proposition is approved by a majority of the votes cast, the officers elected at the next succeeding quadrennial election shall be those prescribed for parishes who have not adopted the commission plan. Upon the qualification of the officers, the parish shall resume its original form of government (*R.S. 33:1285*).

## **MUNICIPAL GOVERNMENT**

The procedure for incorporating a new municipality and establishing the form and powers and duties of its government has evolved dramatically since Louisiana became a state. Generally this evolution has been in the direction of greater local autonomy.

Prior to 1879, municipalities were created by legislative Act. The 1879 Constitution prohibited the legislature from enacting any local or special law creating corporations or amending their charters, and in 1882, the first general statute was enacted establishing procedures for municipal incorporation. The Constitution of 1898, however, again provided that local or special laws creating municipal corporations could be passed by the legislature provided the municipality had a population of at least 2500 inhabitants. This remained true until 1952 when the 1921 Constitution was amended to prohibit the legislature from passing any further local or special laws creating municipal corporations. The 1952 constitutional amendment did allow the legislature to amend or repeal existing special legislation, and similar provisions have been retained in the 1974 Constitution (*Art. VI, §2*).

### **Forms of Municipal Government**

- ! *Mayor-Board of Aldermen*  
(*Lawrason Act*)
- ! *Commission*
- ! *Commission-City Manager*
- ! *Special Legislative Charter*
- ! *Home Rule*



When the legislature was in the business of creating municipalities, each creating Act served as the municipality's charter and it set forth the form of government as well as the municipality's powers and duties. However, once municipalities were allowed to incorporate independently of the legislature, a general charter was needed to provide for the form of government and the powers and duties of new municipalities. In 1898, the legislature passed the Lawrason Act to accomplish this. The Lawrason Act provided only one form of government, the mayor-board of aldermen form.

Today in Louisiana, the picture of municipal governance is a complex one. Some of the municipalities created around the turn of the century continue to operate under their special legislative charters. Most small to mid-sized municipalities in the state operate under the Lawrason Act. The Revised Statutes also provide two alternatives to the mayor-board of aldermen form: the commission and the commission-city manager. In addition, several municipalities, especially the larger ones, have adopted their own home rule charters. (*For discussion of municipal home rule, see **Home Rule Charters** below.*)

### **Mayor-Board of Aldermen Form (Lawrason Act)**

The officers of a Lawrason Act municipality are a mayor, aldermen, a chief of police, a tax collector, and a clerk. The number of aldermen varies from three to nine, depending upon whether the municipality is a village, town, or city (a classification determined by population). The mayor is elected at large. Aldermen are elected pursuant to statute (according to the number of aldermen, a certain number are elected by districts and a certain number at large) or the board may establish, by ordinance, a different manner of electing aldermen. The Lawrason Act generally provides that the police chief is elected at large. However, the Act also provides that, *if* the board of aldermen receives a petition signed by twenty-five percent of the qualified municipal electors, it shall call an election on the question of making the police chief an appointed officer. In addition, special provisions provide for appointed chiefs in a number of municipalities. (*For further discussion of elected v. appointed police chiefs, see **Recurring Issues** below.*) Terms of office for municipal elected officials are four years. After each regular municipal election, the mayor and board of aldermen appoint a clerk, tax collector, and all other necessary officers (R.S. 33:381 *et seq.*).

The powers of a mayor-board of aldermen municipal government were originally limited to those specified in the Act itself. This often hampered local officials in their administration of municipal affairs. In 1985-86, the first comprehensive revision of the Lawrason Act since its enactment in 1898 was undertaken. Among the significant features of this revision are: (1) the grant of authority to municipalities to exercise any power and perform any function necessary, requisite, or proper for the management of their affairs not denied by law (R.S. 33:361); and (2) delineating the respective powers and duties of the officials of a Lawrason Act municipality, particularly by designating the mayor as the chief executive officer and the board of aldermen as the legislative body of the municipality (R.S. 33:362).

### **Commission Form**

Any municipality with a population of 2,500 or over, except New Orleans, may choose the commission form of government by majority vote of the electors of the municipality. An election must be called by the mayor or governing authority upon petition of 25% of the electors. If adopted, the plan becomes effective after the terms of the municipal incumbents have expired. (R.S. 33:501 *et seq.*)

The law providing for the commission plan does not establish specific powers for municipalities incorporated under the plan, but rather provides that it prevails over conflicting provisions of the municipal charter at the time the plan becomes effective. Any prior powers of the municipality (conferred by charter or law) not in conflict with the statute are preserved unimpaired. The law also authorizes the municipal council to exercise all powers, duties, and functions of the municipal authorities under the municipal charter prior to adoption of the commission plan (*R.S. 33:506 and 531*).

In accordance with the commission plan, municipalities are governed by an elected council. In the case of municipalities with a population of 100,000 or more, the council must consist of five members – a mayor and four councilmen; municipalities with a population of less than 100,000 are required to have councils of three members – a mayor and two councilmen. Council members are elected at large for four-year terms (*R.S. 33:521*). The law provides that any vacancy in an elective office is filled by appointment of the governor upon the advice and consent of the Senate (*R.S. 33:522*).

The council appoints the following additional municipal officers: municipal attorney, secretary-treasurer and tax collector, chief of police, fire department chief, auditor, civil engineer, municipal physician, and any other necessary officers and assistants. However, only the fire chief, police chief, and those officers necessary for the efficient transaction of municipal affairs are to be appointed in cities with a population of under 40,000. Subject to applicable civil service laws, these officials and assistants may be removed by a majority vote of the council members (*R.S. 33:523*).

Depending upon the number of council members authorized, the law provides for either three or five municipal departments. The powers and duties of the council are distributed among these departments, as determined by the council (*R.S. 33:531*).

### **Commission-City Manager Form**

In a municipality adopting the commissioner-manager form of government, the governing body is the commission and the chief administrative officer is the city manager. This form may be adopted by any municipality of 2,500 or more inhabitants, except New Orleans. Adoption requires a majority vote of the electors of the municipality at an election for the purpose called upon petition of electors equal in number to 33% of the votes cast for all candidates for mayor at the last preceding general election in the municipality. The powers of the municipality under this form are enumerated in *R.S. 33:621-625*.

The law requires that the commission consist of five citizens elected at large to serve four-year terms. The commission selects one of its members as chairman who serves as acting mayor and is recognized as the official head of the city (*R.S. 33:631 and 641*).

The city manager is the administrative head of the municipal government, responsible for the efficient administration of all departments. He is appointed by and serves at the will of the commission, and is also subject to recall by the people. His powers and duties are enumerated in the law and include but are not limited to the following: exercising control over all departments, except the departments of education and law; appointing and removing all department directors and employees, subject to applicable civil service law (the department of law is excepted in part from this provision); and keeping the commission fully advised as to the financial condition and needs of the municipality (*R.S. 33:681-682*).

## STRUCTURE AND ORGANIZATION

The commission may establish the functions of such departments for the management of municipal affairs as may be necessary and may discontinue them or create new departments. Unless otherwise prescribed by ordinance, the following departments are established: law, public service, public welfare, public safety, and finance (*R.S. 33:691*).

### HOME RULE CHARTERS

It is a well-recognized rule of law that local governmental subdivisions (parishes and municipalities) are creatures of the state, may be abolished by the state, and may be vested with such powers and authority as determined by the state. Without constitutional limitations, local governmental subdivisions are at the mercy of the legislature. The Louisiana Constitution, however, grants general authority to any Louisiana municipality or parish to draft, adopt, and amend a home rule charter.

There are several facets of the local autonomy which comes with adopting a home rule charter.

First, through the charter process, the citizens select their own form of government and decide how powers and duties will be distributed in that government. Once the charter is adopted, the legislature is constitutionally prohibited from enacting any law which changes or affects the structure and organization or the particular distribution and redistribution of the powers and functions of the local government (*Const. Art. VI, §6*).

Second, a charter may provide the local government with the authority to exercise any power and perform any function necessary, requisite, or proper for the management of its affairs, not denied by general law or inconsistent with the constitution (*Const. Art. VI, §5*). This is the reverse of the traditional understanding of local government authority under which local governments have only the power explicitly granted to them.

And third, the constitution grants some degree of protection from legislative interference in the exercise of power. The fact that a charter government can exercise any power not denied by *general law* means that a power cannot be taken away from a local government by a local law.

Broadly speaking, a home rule charter is prepared by a local charter commission and then submitted to the voters for approval. The constitution authorizes appointment or election of

#### Home Rule Charters Who has a home rule charter?<sup>1</sup>

##### Municipalities

Alexandria	Hammond	Natchitoches
Baker	Jennings	Oak Grove
Berwick	Kenner	Patterson
Bogalusa	Lake Charles	Shreveport
Bossier City	Leesville	Slidell
Covington	Mandeville	Sulphur
Dequincy	Monroe	Thibodaux
DeRidder	Montgomery	West Monroe
Donaldsonville	Morgan City	Zachary

##### Parishes

Ascension	Livingston	St. Landry*
Caddo	Plaquemines	St. Martin
Iberia	St. Bernard	St. Mary
Iberville	St. Charles	St. Tammany
Jefferson	St. James	Tangipahoa
Lafourche	St. John the Baptist	Washington
		West Baton Rouge

##### City-Parishes

Baton Rouge-East Baton Rouge Parish  
Houma-Terrebonne Parish  
Lafayette-Lafayette Parish  
New Orleans-Orleans Parish

<sup>1</sup> As of November, 2003

\*Effective January 2004

the members of the commission. The local governing authority is required to provide for the election of a commission if it is petitioned by ten percent or ten thousand, whichever is fewer, of the electors of the subdivision.

The statutes flesh out these requirements for the selection of a charter commission. (*See R.S. 33:1395 et seq.*) A charter commission consists of not fewer than seven but not more than eleven members. The commission is required to submit a proposed charter to the governing authority within eighteen months of taking office. Members of the commission serve until the charter is finally adopted or rejected by the voters or until the end of the eighteen-month period. A home rule charter must include a method for amending the charter, but all amendments are subject to voter approval.

The constitution also authorizes consolidation of local governments under a single charter. Constitution Article VI, Section 5(D) provides that two or more local governmental subdivisions located within the boundaries of one parish may adopt a home rule charter subject to voter approval. (A local governmental subdivision is defined by the constitution to mean a municipality or a parish.)

### **What is a Political Subdivision?**

Many constitutional and statutory provisions are relevant to all units of local government: cities, parishes, and special districts. Other provisions are relevant to both cities and parishes but not to special districts. For the purpose of making this distinction, the constitution includes the following defined terms; these definitions apply generally and unless a term is otherwise defined in a specific instance.

*Local governmental subdivision* means any parish or municipality.

*Political subdivision* means a parish, municipality, and any other unit of local government, including a school board and a special district, authorized by law to perform governmental functions.

*Source: Const. Art. VI, §44*

A variety of plans of parish, municipal, and consolidated government exists under home rule charters. For example, East Baton Rouge Parish and the city of Baton Rouge have a consolidation of the city and parish government; in Orleans Parish, the parish and city are coterminous and operate under a single governing authority; and in Jefferson Parish, the parish governing body is a parish council.

## **SPECIAL DISTRICTS**

In addition to municipalities and parishes, Louisiana, like other states, has found it expedient to create other local governing authorities. A special district is one such authority.

The major difference between a special district and a city or parish is that a special district is usually created to perform one major function. At one time, districts were usually created to provide some particular service to a rural area; water or fire protection for example. Today there are numerous types of special districts, and they are becoming common in suburbs and inner cities also.

Special districts are most often governed by a commission or board appointed by local or state officials or some combination thereof. The commissioners are charged with executing the function of the particular district and are usually granted some taxing and borrowing authority in order to generate funds for such purpose. The authority of the commission is limited to a specified geographic area, but such area can be a part of a parish or city or a multiple parish area.

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Special districts are created through a variety of means. Some are created by the legislature individually by local legislative Acts. Many of the more common types of districts, e.g. fire protection and hospital service districts, are created by parishes or municipalities pursuant to a general law granting such authority. The constitution allows the legislature to grant special districts the power to levy taxes and issue bonds.

### **RECURRING ISSUES**

While the state government is ultimately responsible for all matters of governance left to it by federal law, local governments play a big role in many of the day to day details of maintaining the orderliness and security of the communities in which people live. For example, most police and fire protection is provided by city or parish governments or their officials or special service districts. Another important aspect of this role is the web of authority and functions local officials have with regard to immovable property (i.e., land and buildings). Still another aspect of this role is the question of extending the boundaries of a municipality and the impact it may have on parish government. The following discussion presents some of the ways local governments are involved in the public safety, management, development, and use of property, and annexation.

#### **Public Safety/Police Chiefs**

In many Lawrason Act municipalities in recent times it has become very difficult if not impossible to find qualified persons to run for the office of chief of police. Since the office is elective, any candidate has to be an elector of the municipality and has to be interested in running for the office, a daunting task to some individuals, and sometimes no one qualifies. Municipalities have argued that if the position were not elective they could appoint qualified non-residents to the position of chief of police and in recent years the legislature has amended the Lawrason Act to provide for the appointment of the police chief in many individual municipalities. More recently the legislature has enacted legislation which makes it easier for the governing authority in Lawrason Act municipalities with a population of 2,500 or less to call an election on the issue of whether to elect or appoint a chief of police (*R.S. 33:381.2*).

Other issues affecting appointed chiefs of police in some municipalities have revolved around the question of the authority of the mayor to appoint and remove individuals of the mayor's choosing to the position of chief. In municipalities of 7,000 population or above the appointed chief is under civil service and is a classified employee who is appointed and removed under the laws governing civil service. Recently the legislature has amended the civil service laws for certain municipalities to permit the mayor greater latitude in appointing and removing the chief of police.

#### **Land Use**

Among the factors which are important in making a community livable is the proximity of various types of activities to each other. For example, the job of making sure schools are near homes and heavy industry is fairly distant from both requires a great deal of planning and effort by local governing authorities. The state has established some parameters for exercising this authority.

Subject to uniform procedures established by law, a local governmental subdivision (parish or municipality) may: adopt regulations for land use, zoning, and historic preservation; create

commissions and districts to implement those regulations; review decisions of such commissions; and adopt standards for the use, construction, demolition, and modification of areas and structures (*Const. Art. VI, §17*). The legislature has enacted general laws authorizing and regulating zoning and building restrictions in municipalities (*R.S. 33:4721 et seq.*) and parishes (*R.S. 33:4780.40 et seq.*). In addition, the legislature has enacted laws authorizing and providing for local historic preservation (*R.S. 25:731 et seq.*).

With respect to more long range plans, the statutes authorize municipalities and parishes to create planning commissions. (*R.S. 33:101 et seq.*) Such commissions are charged with the responsibility of formulating a master plan for the physical development of the area. Pursuant to such plan, the commissions also oversee the placement of roads and the subdivision of property for residential use.

### **Safety**

Local governments are also involved in insuring the security and safety of new structures and other property. In order to promote the safety, health, morals, and general welfare of the community, local governmental subdivisions are authorized to adopt and enforce building codes (*R.S. 33:4771 et seq.*) and fire prevention regulations (*R.S. 33:1236, parishes; R.S. 33:4741 et seq., municipalities*).

Most parishes and municipalities are also authorized to require that property be maintained in a safe and sanitary condition. They can require property owners to cut grass and to remove trash, for example. Property owners who do not comply with such requirements may be subject to various fines or property liens. Parishes and municipalities are further authorized to condemn, demolish, or remove any structure which becomes a threat to public safety.

### **Housing**

Another public welfare issue for which local governments assume responsibility and which involves them in property matters is housing the residents of their respective communities. Most programs such as rental assistance and public housing are provided by the federal government which deals with the local governments directly and the legislature does not play a big role.

In recent years, however, the state has been more involved in preserving housing stock and making it available to persons in need. Efforts by the state have included liberalizing the laws and constitutional provisions regarding the sale by local governments of tax adjudicated property and efforts to facilitate the involvement of nonprofit housing and historical preservation groups with local governments in the renovation of blighted housing.

Similar efforts have also been undertaken to return abandoned and blighted property, unsuitable for housing, to commerce and thus also to the tax rolls.

### **Annexation**

The legislature has delegated the power of annexation to municipalities and has authorized annexation by petition (*R.S. 33:151 et seq.*) and ordinance (*R.S. 33:171 et seq.*). As municipalities have grown and expanded to fill their boundaries they have experienced the need to annex adjacent properties into the municipal limits. Often this is in response to petitions from citizens

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outside the municipality wanting to avail themselves of amenities such as water, sewer, lighting, streets and, in some instances, gas and electricity.

Sometimes the need for annexation arose because the city had expanded around an area and it was necessary to take the area into the municipality, but there were no resident property owners nor registered voters and the law would not permit such annexation. Recent efforts by the legislature have resulted in a procedure being adopted which would allow such annexation.

Another area of contention has been over the question of revenue loss to the parish governing authority when municipal annexation occurs which has been even more contentious when the municipal annexation has crossed parish lines. Legislation was adopted in individual cases, but more recently legislation has been adopted, affecting all annexation, which provides for a sharing of revenue and establishes a procedure for resolution of conflicts by arbitration.

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<b>292</b>	<b>Tax Assessor</b>
<b>292</b>	<b>Clerk of District Court</b>
<b>292</b>	<b>Registrar of Voters</b>
<b>292</b>	<b>District Attorney</b>

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## Part II. Constitutional Offices

Separate and apart from local offices which are part of the varying forms of local government, the Louisiana Constitution provides for the parish offices of sheriff, coroner, assessor, clerk of the district court, registrar of voters, and school board members. (*School boards are discussed in Chapter 2, Part III, Education.*) These constitutional officers are generally independent of the parish governing authority. The constitution also provides for the office of district attorney for each judicial district, which may be composed of one or more parishes.

### Sheriff

The constitution establishes the office of sheriff in each parish, except Orleans, who is elected for a term of four years (*Const. Art. V, §27*). The sheriff is the chief law enforcement officer in the parish and has both criminal and civil jurisdiction. The sheriff is in charge of all criminal investigations and is responsible for executing court orders and process. The sheriff is the collector of ad valorem taxes and other taxes and license fees as provided by law and is the keeper of the public jail in the parish. Article V, Section 32 provides for the offices of civil sheriff and criminal sheriff in Orleans Parish.

### Parish Coroner

The office of parish coroner is constitutionally established (*Const. Art. V, §29*). The coroner is elected for a term of four years and must be a licensed physician unless no licensed physician will accept the office. The coroner is generally considered an officer of the court in that many of his duties relate to law enforcement. His functions include holding inquests, ordering autopsies, and furnishing death certificates after an investigation or autopsy (*R.S. 33:1551 et seq.*).



### **Tax Assessor**

A tax assessor is elected from each parish, Orleans Parish excepted (*Const. Art. VII, §24*). His term of office is four years. In Orleans Parish, seven assessors compose a board of assessors. One assessor is elected from each municipal district of New Orleans, and each must be a resident of the district from which he is elected; all serve four-year terms. The primary duty of the assessors is assessment of property subject to ad valorem taxation.

### **Clerk of District Court**

The constitution also establishes the office of clerk of the district court in each parish, to be elected for a term of four years (*Const. Art. V, §28*). The clerk of court serves as an ex officio notary public and parish recorder of conveyances, mortgages, and other acts. Article V, Section 32, provides for the offices of the clerks of the civil and criminal district courts, the register of conveyances, and the recorder of mortgages for Orleans Parish.

### **Registrar of Voters**

The governing authority of each parish is required to appoint a registrar of voters (*Const. Art. XI, §5*). Subject to the direction of the commissioner of elections and as provided by law, the registrar in each parish is responsible for the registration of voters and for the administration and enforcement of the laws, as well as the rules and regulations of the commissioner, relating to the registration of voters. Each registrar must be a resident and qualified voter of the parish in which he is to perform his duties. He may be removed for certain causes by the State Board of Election Supervisors. Registrars are also responsible for the conduct of absentee voting (*R.S. 18:1301 et seq.*).

### **District Attorney**

The district attorney is elected for a term of six years. He must have been admitted to the practice of law for at least five years and must have resided in the district for the two years preceding the election. The district attorney or his designated assistant has charge of criminal prosecution by the state in the district, represents the state before the grand jury, and is the legal advisor to the grand jury.

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## Part III. Local Civil Service

As with all civil service, local civil service in Louisiana is aimed at improving the stability, experience, efficiency, and professionalism of government employees by protecting such employees from the sometimes tumultuous realities of electoral politics. This is done by the creation of local civil service systems. A civil service system consists of the employees of a governmental entity and its agencies, a governing board which sets policy for the system, a department established for the execution of the policies of the board, and a detailed employment plan.

As a rule, fire and police personnel are distinguished from other local government employees, usually participating in different civil service systems. The following discussion will therefore treat these two elements of local government employment separately, noting exceptions to the general rule.

### LOCAL CIVIL SERVICE SYSTEMS GENERALLY

The establishment of a civil system for personnel other than fire and police in cities having a population of less than 400,000 and in parishes is generally a matter of local option. These authorities are permitted to adopt such a system in any manner provided by law. The legislature must establish such a system by law, but the law cannot become effective until approved by ordinance adopted by the parish or municipality (*Const. Art. X, §15*). The legislature has provided by general law for a city civil service system for any city having a population over 100,000 (*R.S. 33:2391 et seq.*) and for certain other cities and parishes by local legislation. (**Note:** *Const. Art. X, Part I specifies that it does not permit including employees included in the unclassified service in Section 2 thereof in a local civil service system. Relative to local government, this excludes employees of sheriffs, coroners, clerks of court, and district attorneys from the classified service.*)

## LOCAL CIVIL SERVICE

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For any city with a population of greater than 400,000, (presently only New Orleans is in this category) a civil service system is established and provided for by the constitution (*Part I of Article X*). Article X, Section 1 provides that a civil service system in such a city includes all persons holding offices and positions of trust or employment employed by the city or by any instrumentality thereof. Thus, the civil service system of New Orleans includes police and fire personnel making it an exception to the general rule stated above. (The constitution of 1974 authorized the city to hold an election within one year on the question of dividing the city civil service; the electors of the city voted against division.) (**Note:** *Const. Art. X, Part I also applies to the state civil service system.*)

### **Matters Included in Constitution Article X, Part I**

- ! Classified and Unclassified Service
- ! Civil Service Commission
- ! Appointments
- ! Political Activity
- ! Administration/Rules
- ! Department of Civil Service
- ! Funding

In addition to authorizing most local governing authorities to adopt a civil service system, the constitution (*Art. X, §14*) additionally authorizes each city with a population of between 10,000 and 400,000, each parish, and each city-parish, subject to voter approval, to choose to have its civil service system governed by the provisions of the constitution which apply to civil service in New Orleans (*i.e., Part I of Article X*).

### **Classified and Unclassified Service** (*Const. Art. X, §2*)

Just as in the case of the state civil service, a local civil service system created by (New Orleans) or by adoption of the provisions of Part I of Article X of the constitution includes the unclassified and the classified service. In such a civil service system, the following officers and employees are placed in the unclassified civil service by the constitution:

- C Elected officials and persons appointed to fill vacancies in elective offices
- C The heads of each principal executive department appointed by the mayor or the governing authority of a city
- C City attorneys
- C Members of city boards, authorities, and commissions
- C One person holding a confidential position and one principal assistant or deputy to any officer, board, commission, or authority above, except city attorneys and civil service departments
- C Bona fide students of schools, colleges, and universities of the state employed by any parochial or municipal agency
- C Employees, deputies, and officers of police juries, school boards, assessors, and of all offices provided for in Article V of the constitution (judicial branch), except the offices of clerk of the municipal and traffic courts in New Orleans
- C Railroad employees whose working conditions and retirement benefits are regulated by federal agencies in accordance with federal law

The local civil service commission may add positions to the unclassified service and revoke those positions. Classified employees are covered by the civil service protection and prohibitions of the constitution and by regulations of the local civil service commission; unclassified employees are not.

**Civil Service Commission** (*Const. Art. X, §4*)

City or parish civil service commissions governed by Article X, Part I (*created by or pursuant to Article X §1 or 14*) are appointed by local governing authorities from nominees submitted by presidents of institutions of higher learning.

**Appointments** (*Const. Art. X, §§7, 8, 12*)

Permanent appointments and promotions in a local classified civil service subject to Part I of Article X may be made only after certification under a general system developed by the commission based upon merit, efficiency, fitness, and length of service. Competitive examinations are required, to the extent practicable. As in the case of state civil service, discrimination against classified employees is prohibited and a permanent classified employee may not be subjected to disciplinary action except for cause. The commission has exclusive power to hear and decide all removal and disciplinary cases, subject to review by the courts of appeal.

**Political Activity** (*Const. Art. X, §9*)

Members of civil service commissions and officers and employees in the classified service (if subject to Part I of Article X) are prohibited by the constitution from participating in political activity.

**Administration/Rules** (*Const. Art. X, §10*)

The constitution vests each local commission governed by Article X, Part I with broad and general rulemaking and subpoena powers for the administration and regulation of the classified service, including the power to adopt rules for regulating employment, promotion, demotion, suspension, reduction in pay, removal, certification, qualifications, political activities, employment conditions, compensation and disbursements to employees, and other personnel matters and transactions; to adopt a uniform pay and classification plan; to require employee training and safety programs; and generally to accomplish the objectives and purposes of the merit system of civil service.

Any rule or determination by a civil service commission under Part I of Article X affecting wages and hours of employment has the effect of law and becomes effective only after approval by the appropriate governing authority.

**Department of Civil Service** (*Const. Art. X, §6*)

For those local systems adopting the constitutional provisions, the constitution provides for a department of civil service, headed by a director of civil service (who is a classified employee). The department implements the commission's rules and policies.

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### **Funding** (*Const. Art. X, §13*)

The constitution requires each local government subject to the Article X, Part I provisions to make adequate annual appropriations to enable its commission and department to implement efficiently and effectively the constitutional civil service provisions.

### **FIRE AND POLICE CIVIL SERVICE**

Part II of Article X of the constitution establishes a classified fire and police civil service system that applies to any municipality which has a population of between 13,000 and 400,000 and which operates regularly paid fire *and* police departments and to any parish or fire protection district which operates a regularly paid fire department. Policemen and firemen employed by any such entity are expressly excluded from any local civil service system governed by Part I of Article X.

Though this civil service system is established in the constitution, the provisions which govern it are continued from the constitution of 1921. The legislature, by law enacted by two-thirds vote of each house, may amend these provisions, but may not abolish the system or make it inapplicable to any such municipality, parish, or fire protection district. (*Const. Art. X, §§16-20*).

In addition to the constitutionally established fire and police civil service, statutes require and provide for civil service for paid firemen and policemen in any municipality with a population of between 7,000 and 13,000 and in which there is a regularly paid fire *or* police department.

One aspect of the fire and police civil service system has become particularly contentious over the past several years. Presently promotions within this system are based on seniority within the department. The employees who pass the test for a particular promotion are eligible for promotion in order of the total length of time in the departmental service. Proposals for changing this have included considering only seniority in the current position and schemes to more thoroughly evaluate and consider qualifications.

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## Part IV. Local Government Finance

### Taxes

The general taxing power or authority for parish, municipal, and other local public purposes is granted to political subdivisions in Article VI, Section 30 of the Constitution of Louisiana. The legislature by general, local, or special law may create or authorize the creation of special districts, boards, agencies, commissions, and authorities of every type and define their powers, including the power of taxation and the power to incur debt and issue bonds (*Const. Art. VI, §19*). Such local governmental functions as fire protection, garbage collection, and sewerage districts have been statutorily authorized under those provisions.

The constitution grants sales tax authority to all parishes and municipalities (local governmental subdivisions) and school boards. The constitutional maximum self-operative rate within any parish is three percent in the aggregate for these local governmental subdivisions and school boards. These rates may be increased by the legislature but subject to voter approval. These limitations do not apply to special taxes for works of public improvement which are left solely to the discretion of local voters (*Const. Art. VI, §§29, 32*).

Political subdivisions or political corporations are authorized by the constitution to engage in cooperative endeavors, including financing, for a public purpose with each other, the state, the United States or its agencies, or with any public or private association, corporation, or individual (*Const. Art. VI, §20, Const. Art. VII, §14(C)*).

No law or state executive order, rule, or regulation requiring increased expenditures for any purpose shall

become effective within a political subdivision until approved by the governing authority of the political subdivision and then only if the legislature appropriates funds for that purpose or the effected political subdivision or the legislature provides for a local source of revenue therefore (*Const. Art. VI, §14*). This provision does not apply to school boards. There are a number of other exceptions to this prohibition against unfunded mandates including legislation requested by the affected political subdivision; legislation defining a new crime or amending an existing crime; legislation enacted to comply with a federal mandate; legislation providing for civil service; minimum wages, working conditions; or legislation providing for retirement benefits, hours, or sick leave of firemen or policemen. A further exception is made for any law enacted by a two-thirds vote of the elected members of each house of the legislature.

### Ad Valorem Tax

The ad valorem tax (property tax), the oldest form of taxation presently in use in the nation, traditionally has been the financial mainstay of local governments, and during most of the period prior to World War I, it represented the largest single source of public revenues. Difficulties in administration of this tax have included problems associated with assessment levels applied to different types of property, various tax exemptions on homestead and industrial properties, and the impact of the tax on different classes of taxpayers.

The general alimony or maintenance taxes available to parishes and municipalities (*Const. Art. VI, §§26, 27*) and all other ad valorem tax millages of political subdivisions are levied on the assessed value of properties as listed on the local tax rolls. For the purposes of such taxation, all properties are appraised at fair market value, and the assessed value is determined as a percentage of such fair market value as follows: land – 10%; improvements for residential purposes – 10%; electric cooperative properties, excluding land – 15%; public service properties, excluding land – 25%; and all other property – 15% (*Const. Art. VII, §18*).

Bona fide agricultural, horticultural, marsh, and timber lands are defined by law and are assessed for tax purposes at ten percent of use value rather than fair market value (*Const. Art. VII, §18; R.S. 47:2301 et seq.*).

In computing the actual proceeds expected from the imposition of a certain millage, consideration also must be given to the amount of property eligible for the homestead exemption and other property exemptions listed in the constitution. The homestead exemption was increased to the present level of \$7,500 dollars of assessed valuation in 1982. The homestead exemption does not apply to municipal ad valorem taxes except in Orleans Parish (*Const. Art. VII, §§20, 21*).

The Louisiana Tax Commission was created in 1976 to succeed several other boards and commissions created under previous constitutions. The powers of the commission are extremely broad as to the administration and enforcement of the state property and assessment laws. In addition to reviewing and accepting each assessment list, with the authority to reject or order individual changes, the commission devises and issues all forms used for property tax implementation and prepares and issues rules and regulations which very narrowly prescribe how assessors are to perform their duties and responsibilities. The commission also appoints one of the five members of the assessors' certification program committee governing the professional standards and education and training of assessors and their deputies to insure fair and equitable property assessments (*R.S. 47:1907*).

Another extremely important function of the commission is the assessment of public service properties. These properties, such as telephone companies, pipelines, railroads, and other utilities, are actually assessed by the commission staff rather than the individual assessors and the commission then forwards this information to the assessors for use in preparing the tax rolls.

Pursuant to the commission's grant of authority to promulgate rules and regulations for the administration of the property tax laws, the commission promulgates a new set of real/personal property rules to be used for any statewide reassessment. This update of applicable rules is performed each time there is a reassessment of property as required by the constitution – at least once every four years (*Const. Art. VII, §18(F)*).

Of particular importance to taxpayers is the roll-up/roll-back provision of the constitution which mandates millage adjustments in order to prevent the increase or decrease of total taxes collected because of reappraisal or changes in the homestead exemption; taxes realized from increased millages or additional property are not affected. A taxing authority may collect the additional revenues to be gained from such changes by reinstating the prior year's millage. A reinstatement does not require voter approval but does require a two-thirds vote of its total membership and a public hearing. Public notice of the public hearing shall be published on two separate dates in the official journal of the taxing authority and one other newspaper with a larger circulation within the taxing authority. Each publication of notice must occur no less than thirty days before the public hearing (*Const. Art. VII, §23*).

### **Sales Tax**

The other major source of tax revenue for local governments is the sales and use tax (sales tax). Imposition of this tax for local government subdivisions and school boards is subject to voter approval. The constitution authorizes a maximum rate of three percent in the aggregate for the local governmental subdivisions (police jury and municipalities), and the school board within any parish (in addition to the state sales tax). However, the legislature, by general or by local law, may authorize sales taxes for local governmental subdivisions and school boards which are above that limit, subject to voter approval on the local level (*Const. Art. VI, §29*), and it has frequently exercised this authority. Numerous statutory provisions authorize various rates of sales taxes generally and specifically for municipalities, parishes, school boards, special taxing districts, and sheriffs. The constitution requires all sales and use taxes within a parish to be collected by a single collector (*Const. Art. VII, §3(B)*).

Additional constitutional provisions authorize financing mechanisms for specific local functions and services. Works of public improvement may be financed by special taxes or assessments (*Const. Art. VI, §§32, 36*). In keeping with the general authorization to engage in cooperative endeavors, the legislature may enact laws to enable political subdivisions and their agencies to comply with federal laws and regulations in order to secure federal participation in funding capital improvement projects (*Const. Art. VII, §17*).

Levee districts are authorized a maximum of five mills (two and one-half mills in the Orleans Levee District) without voter approval for purposes incidental to flood protection. This tax is to be levied on all taxable property situated within the alluvial portions of the district subject to overflow (*Const. Art. VI, §39*). If the district has no other funds or resources from which payment can be made for property used or destroyed for levee purposes, it must levy on all



taxable property within the district a tax sufficient for such payment, to be used solely in the district where collected (*Const. Art. VI, §42*).

School boards realize local funds for the support of public elementary and secondary schools from the imposition of an ad valorem maintenance tax not to exceed five mills (thirteen mills in Orleans Parish). For additional support to public schools, any parish or city school board and school or subschool district may levy an ad valorem tax for a specific purpose, upon voter approval (*Const. Art. VIII, §13(C)*). In 1979 and again in 1982 the legislature authorized increases in the maximum millage for such special taxes, from twenty mills to thirty-six mills and then to seventy mills, and all taxes previously voted that fell within the limitation and were otherwise legal were ratified. The maximum duration of such taxes is ten years, but in 1987 the legislature extended the duration to twenty years for taxes levied solely for maintenance of capital facilities or installation of climate control mechanisms in existing classroom facilities (R.S. 39:812).

The constitution prohibits political subdivisions from levying a severance tax, income tax, inheritance tax, tax on motor fuel, or motor vehicle license fee (*Const. Art. VII, §§4(C), 5*). However, the constitution does authorize municipalities and parishes to impose an occupational license tax not greater than that imposed by the state, unless a greater rate is approved by a two-thirds vote of the legislature. Despite repeal of the state occupational license tax in 1981, this taxing authority with respect to local governments has been continued and in 1986 was the subject of a major legislative revision providing for five consolidated rate schedules and the collection and administration of such taxes (*Const. Art. VI, §28; R.S. 47:341 et seq.*).

Proceeds from the license tax on chain stores are collected by municipalities and parishes within their respective boundaries and retained by them as a source of local revenue; the parish may not collect a chain store tax on a store located within any municipality. Notwithstanding the imposition of the tax, each parish or municipality may elect to suspend the effect of the tax in its entirety (R.S. 47:10).

Other supplementary revenues may be derived from a local beer tax (R.S. 26:492), the requirement of permits and fees, and the lease of lands and properties to which political subdivisions have title, custody, or possession.

### **Bonded Indebtedness**

Bonded indebtedness has become an increasingly integral aspect of local government financing as pressures arising from population increase and accelerated urbanization have resulted in continuing demand for such governmental facilities as schools, roads and bridges, hospitals, and community centers. Limitations on the bonded indebtedness of political subdivisions are set forth in R.S. 39:562 et seq. as required by the constitution (*Const. Art. VI, §34*) and Louisiana has further sought to insure prudent issuance of debt by its political subdivisions through a requirement for prior State Bond Commission approval of all bond and other debt issues (*Const. Art. VII, §8*).

Major provisions of the constitution authorize political subdivisions to share in the economic impact of local industrial enterprises through the issuance of industrial bonds; to provide facilities deemed necessary by the electorate in approving propositions for funding by general obligation bonds, subject to statutory limitations; and to issue bonds or other debt obligations

to construct, acquire, extend, or improve any revenue-producing public utility or work of public improvement, such obligations to be secured solely by revenues and properties of the facility (*Const. Art. VI, §§21, 33, 34, 37; R.S. 39:551 et seq.*). Political subdivisions also may use tax increment financing as a source of funding infrastructure and other needs in securing and expanding economic development projects (*R.S. 33:7602, et seq. 33:9023, et seq., and 47:8001, et seq.*).

Statutory provisions additionally authorize the creation of express public trusts to issue obligations and to provide funds for the furtherance and accomplishment of any public purpose or function, such as health, housing, education, transportation, water and sanitation systems, correctional services, educational services, and community development facilities and activities. Creation of any such trust is subject to express approval of a majority of the governing authority of the beneficiary governmental unit and the State Bond Commission. The Louisiana Public Facilities Authority and the Louisiana Imports and Exports Trust Authority are such trusts created under these statutory provisions (*R.S. 9:2341 et seq.*)

### **State Financial Assistance**

State financial assistance to local governments may be divided generally into two categories: (1) legislative appropriations from the state general fund and dedicated funds, and (2) constitutional allocations (no appropriation necessary).

### **State Aid to Local Governments**

State aid to major units of local governments – as used herein means parish governing authorities, municipalities, school districts, sheriffs, and district attorneys – may be divided generally into three types of aid allocations: (1) shared aid which is returned to the jurisdiction of origin; (2) categorical aid which is targeted for a specific purpose; and (3) general aid distributed by formula. Financial assistance to local governments is allocated and distributed via state general fund and dedicated fund appropriations in the General Appropriation Bill, Capital Outlay Bill, and other appropriation bills, and constitutional allocations which do not require an appropriation.

The table on page 303 shows state aid figures for Fiscal Years 1999-2000 through the appropriated amounts for Fiscal Year 2003-2004 by the three types of aid and by specific aid distributions.

Shared aid is comprised of severance tax, royalty funds, the Video Draw Poker Device Fund, and state sales tax dedications to local entities. Severance tax and royalty funds are both constitutional allocations of funds in which the monies are returned to the jurisdiction of origin. Severance taxes (*Const. Art. VII, §4(D)*) are allocated to the governing authority of the parish from which the resource is severed or production occurs, as follows: 1/3 of tax on sulphur not to exceed \$100,000; 1/3 of the tax on lignite, not to exceed \$100,000; 1/5 of the tax on all other natural resources other than sulphur, lignite, and timber, not to exceed \$750,000; and 3/4 of the tax on timber. One-tenth of the royalties from mineral leases on state-owned lands and lake and river beds are allocated to the parish governing authority where severance or production occurs (*Const. Art. VII, §4(E)*). Twenty-five percent of the monies received by the state from fees, fines, and penalties assessed on video draw poker devices are statutorily dedicated (*R.S. 33:4862.12*) for distribution to district attorneys and their assistants for increased compensation and to parishes, municipalities, and sheriffs for enforcement of the video poker codes. All or

a portion of the state sales tax on hotel occupancy collected in each parish is appropriated to virtually all of the respective parishes to support tourism, economic development, and other purposes.

The figures in the table on page 303 aggregate monies received from severance taxes, royalties, video draw poker, and state sales tax and use dedications. In the most recent fiscal year for which actual expenditures are known (Fiscal Year 2002-2003), shared aid comprises roughly 5.1% of the selected state aid distributions.

The overwhelming dollar value of financial assistance (91.3% in the 2002-2003 Fiscal Year) provided to Louisiana local governments is categorical aid which is targeted for specific purposes. Categorical aid falls into four general groupings: education aid, supplemental pays, transportation funds, and miscellaneous.

Educational aid is targeted at elementary and secondary education functions performed by the local school systems. Most of the state money distributed to the local systems is the constitutionally mandated Minimum Foundation Program, MFP (*Const. Art. VII, §13(B)*); over \$2.5 billion was appropriated in Fiscal Year 2003-2004 for the MFP. The formula is developed and adopted by the Board of Elementary and Secondary Education and then reviewed and adopted by the legislature in the form of a resolution. The legislature annually appropriates monies sufficient to fund the most recently adopted formula. The constitution also mandates the legislature to appropriate funds to provide free textbooks for the children of the state; this item is now a part of the MFP (*Const. Art. VIII, §13(A)*). (The MFP is more thoroughly discussed in another part of this book.) Annual state general fund appropriations for non-formula, educational functions such as vocational education, adult education, food service, and PIPs, among others, are also made by the legislature to local school districts.

Among the most significant annual legislative appropriations for local government purposes are extra compensation for public safety personnel (generally referred to as supplemental pay). These funds are earmarked for local public safety by supplementing the salaries of municipal police and marshals (*R.S. 33:2218.2 et seq.*), deputy sheriffs (*R.S. 33:2218.1 et seq.*), constables and justices of the peace (*R.S. 13:2591*), and firemen (*R.S. 33:2001 et seq.*).

Monies targeted at assisting local governments with upgrading and maintaining their road and bridge systems come primarily from the constitutional provisions of the Transportation Trust Fund as they relate to the Parish Transportation Fund (*Const. Art. VII, §27(B)* and *R.S. 48:756*). Under these provisions, no more than 20% of the trust funds may be appropriated for the Parish Transportation Fund, state police for traffic control purposes, ports, and Statewide Flood-Control Program; however, the Parish Transportation Fund is guaranteed a minimum of the avails of one cent of the gasoline and special fuels tax. The legislature has also provided funding for mass transit in the larger cities. Additional monies have been provided from time to time for other transportation needs; for example in the 2003-2004 Fiscal Year \$3 million has been appropriated for off system bridge repairs. Monies to entities such as levee boards, port commissions, or terminal districts are not reported here.

The largest general formula and distribution is Revenue Sharing (*Const. Art. VII, §26*), an annual \$90 million state general fund constitutional allocation that is distributed solely on the basis of population (last federal decennial census) and the number of homesteads in each parish, under provisions of an annual legislative allocation. The current formula weights the two factors,

population and homesteads, 80% and 20%, respectively, in determining the amount for each parish.

In Fiscal Year 1999-2000, all municipalities and the five parishes with no incorporated municipalities received state general funds distributed to them as tobacco tax assistance to replace the statutory distribution which was abolished in 1988; however, funds are distributed to eligible units under the old formulas. This was the last fiscal year in which such an appropriation was made.

The two percent fire insurance distribution was re-created as a dedication in 1990 (*Act 759*) and is appropriated from those funds. Local fire departments receive assistance from the proceeds of a two percent tax on the amount of fire insurance premiums collected by every foreign or alien insurer from any business which insures property of any nature or description against loss or damage by fire. All such revenues are credited to a special fund for distribution to each parish governing authority in accordance with rules and regulations established by the state treasurer based on a population formula as provided in R.S. 22:1585.

### **Trends in State Aid Distributions**

A review of the data in the table on page 303 reveals a number of significant features of state financial assistance to major units of local government over the fiscal years shown.

Shared aid which comprises 5.1% of the total aid reported has increased 15.5% over the period from Fiscal Year 1999-2000 through 2003-2004.

For targeted aid the most striking feature is that state aid to local school districts for elementary and secondary education is the greatest dollar amount of assistance in any one year. In Fiscal Year 2002-2003 MFP aid comprises 95.8% of the total targeted aid distributed and such funding has increased by over 11% since the 1999-2000 Fiscal Year.

Supplemental pays which represent only 2.6% of total selected aid have grown by nearly 11.3% since Fiscal Year 1999-2000.

Funding for transportation purposes, which amounts to 2.7% of total reported aid, has grown by 1.3% since Fiscal Year 1999-2000.

General formula aid which accounts for 3.6% of the total distributions has changed only minimally since the 1999-2000 Fiscal Year.

### **State Aid Fund Distributions to Major Units of Local Governments Statewide Totals for Selected Distributions**

<b>Aid Category</b>	<b>1999-00 Actual</b>	<b>2000-01 Actual</b>	<b>2001-02 Actual</b>	<b>2002-03 Actual</b>	<b>2003-04 Appropriated</b>
<b>Shared Aid</b>					
Severance Tax	\$46,851,860	\$39,585,957	\$38,933,393	\$37,452,012	
Royalty Funds	\$22,929,996	\$42,383,783	\$28,957,215	\$37,466,944	
Video Draw Poker Device Fund	\$30,106,877	\$35,553,171	\$33,200,000	\$37,511,791	\$40,600,000
State Sales Tax Dedications	\$24,932,151	\$25,853,386	\$32,599,579	\$31,812,391	\$34,277,813
<b>Subtotal - Shared Aid</b>	<b>\$124,820,884</b>	<b>\$143,376,297</b>	<b>\$133,690,187</b>	<b>\$144,243,138</b>	<b>\$74,877,813</b>

## LOCAL GOVERNMENT FINANCE

Aid Category	1999-00 Actual	2000-01 Actual	2001-02 Actual	2002-03 Actual	2003-04 Appropriated
<b>Targeted, Categorical Aid</b>					
<b>Education</b>					
Public Equalization/MFP	\$2,261,578,998	\$2,279,986,600	\$2,387,974,255	\$2,466,411,320	\$2,522,899,982
Subtotal	\$2,261,578,998	\$2,279,986,600	\$2,387,974,255	\$2,466,411,320	\$2,522,899,982
<b>Supplemental Pays</b>					
Police/Marshals	\$21,454,870	\$21,927,031	\$21,762,730	\$22,081,768	\$23,240,088
Sheriff's Deputies	\$24,884,685	\$25,497,142	\$26,475,000	\$27,648,560	\$28,762,776
Firemen	\$16,543,377	\$16,802,803	\$17,162,826	\$17,458,830	\$18,007,488
Constables JPs	\$686,684	\$686,401	\$687,834	\$684,635	\$720,000
Subtotal	\$63,569,616	\$64,913,377	\$66,088,390	\$67,873,793	\$70,730,352
<b>Transportation Monies</b>					
Parish Road Funds	\$31,237,500	\$31,237,500	\$31,237,500	\$31,237,500	\$31,237,500
Mass Transit	\$4,462,500	\$4,462,500	\$4,962,500	\$4,962,500	\$4,962,500
Other Transportation	\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000
Subtotal	\$38,700,000	\$38,700,000	\$39,200,000	\$39,200,000	\$39,200,000
<b>Subtotal Categorical Aid</b>	<b>\$2,488,669,498</b>	<b>\$2,526,976,274</b>	<b>\$2,626,952,832</b>	<b>\$2,717,728,251</b>	<b>\$2,707,708,147</b>
<b>General Formula Aid</b>					
State Revenue Sharing	\$90,000,000	\$90,000,000	\$90,000,000	\$90,000,000	\$90,000,000
Tobacco Tax	\$12,000,000	0	0	0	0
2% Fire Insurance	\$8,223,282	\$8,696,765	\$8,700,000	\$10,732,135	\$10,100,000
<b>Subtotal Formula Aid</b>	<b>\$110,223,282</b>	<b>\$98,696,765</b>	<b>\$98,700,000</b>	<b>\$100,732,135</b>	<b>\$100,100,000</b>
<b>Grand Totals</b>	<b>\$2,598,892,780</b>	<b>\$2,625,673,039</b>	<b>\$2,725,652,832</b>	<b>\$2,818,460,386</b>	<b>\$2,807,808,147</b>